No. 93-880

In The

Supreme Court of the United States

October Term, 1993

JUDY MADSEN, ED MARTIN, and SHIRLEY HOBBS,

Petitioners,

v.

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Respondents.

On Writ Of Certiorari To The Supreme Court Of Florida

JOINT APPENDIX
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** Petitioners objected to the inclusion of this testimony en masse in the Joint Appendix because it was transcribed after the granting of the Petition for Writ of Certiorari and was not before the Supreme Court of Florida.

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IN THE CIRCUIT COURT OF
THE EIGHTEENTH JUDICIAL
CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	]	
Petitioners,	]	CASE NO.
vs.	]	91-2811-CA
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,	]	
Respondents.	]	

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

A hearing in the above style cause was held at 1:30 o'clock p. m., on Tuesday, the 23rd day of March, 1993, in the Courtroom of the Seminole County Courthhouse [sic], Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

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[p. 213] WHEREUPON:

The following proceedings were had:

BRUCE CADLE

a witness herein, having first been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Mr. Cadle, would you please identify yourself, your name and address and occupation.

A My name is Bruce Allen Cadle. I reside at 701 Andrew Street Southeast, Palm Bay, Florida. I'm a full time missionary to the preborn children.

Q All right. Could you tell us the names of organizations you belong to, of all the organizations that you belong to.

A I belong to the Florida Association of Realtors, the National Association of Relators. And, I believe that's all.

Q Okay. Do you belong to an organziation [sic] named Operation Goliath?

A No, sir.

Q Have you at some time belonged to such an organization?

A No, sir.

[p. 214] Q You've never belonged to Operation Goliath?

A You said to an organization called Operation Goliath. The answer would be no, sir.

Q Your answer is no?

A Yes, sir.

Q Is there such an organization as Operation Goliath?

A Not to my knowledge.

Q What is Operation Goliath?

A Operation Goliath, to my knowledge, was a prolife campaign, I believe, or philosophy.

Q Okay. And, who organized this campaign?

A There were a group of prolife organizations, Right to Life of South Brevard, Brevard Life League, Life Chain, a group of individuals as well coming together under a similar belief.

Q All right, sir. Who were the individuals who came together?

A I have no list, sir. There have been –

Q I'm sorry.

A I have no list of individuals.

Q I understand you don't have a list.

A There maybe hundreds.

Q Just to the best of your memory, who are the people that came together?

A I would certainly have agreed and was involved in [p. 215] that campaign. There would be – I'm not sure how to answer this, Your Honor, except who has come together.

Q Well, I'm trying to use your term in asking the question, Mr. Cadle. There was a, you said a Compaign [sic] called Operation Goliath.

A Correct.

Q And, there were people who were involved in that campaign.

A Correct.

Q And, that campaign was involved in Central Florida; was it not?

A Correct.

Q And, particularly directed towards the clinics, the Women's Health Clinics in Seminole and Brevard County?

A Brevard County only.

Q And, what was the duration of this campaign under the name of Operation Goliath?

A That name probably began in the fall of 1990, as best I recall. To my knowledge, it has not been used since the fall of 1992.

Q All right, sir. But, it was still in use then for approximately a year after the preliminary injunction was entered in this cause?

A That name may have been used or existed, yes, sir.

Q I ask you who else did you deal with in connection [p. 216] with – cooperate with in a campaign known as Operation Goliath?

A It would be a variety of individuals that may say, I mean that I'm involved with and interact with on an ongoing basis. There were no officers. This was not an organization, a legal entity, there was not a –

Q I understand that.

A – I'm not sure how to respond to your question.

Q In the activity known as Operation Goliath, who was involved? The names of people involved.

A I am not sure who would claim that they were involved. In other words, if I were standing on a sidewalk in front of Aware Woman Clinic, I'm not sure whose standing beside me would say that they were there involved in a campaign under the title of Operation Goliath, who would say they were there as individuals.

If it was a list of everyone that's ever been connected with me at a prolife event in Central Florida that would range into the hundreds or thousands, many of which I'm not even personally familiar with.

Q All right, sir. I'm actually trying to use your testimony and trying to get the details about the people that came together to form the campaign called Operation Goliath. Who came together? What individuals? You do know some names certainly, Mr. Cadle.

[p. 217] A Oh there are certainly people on an ongoing basis –

Q Let us have those names.

A – who were active in prolife activity, if that's what you're seeking, in the Melbourne area.

Q Well, I probably will want that at some point. But, I would like to have it specific as to Operation Goliath. Other people, as you told us earlier, came together for Operation Goliath.

A All right, sir. I have no list of names.

Q I'm not asking for a list. I'm asking you for your memory.

A Either printed or in my memory, a list of names of people who would have come together under the name of Operation Goliath. That would be to say that we came together at the beach, a group of individuals, some maybe known by me, some not maybe known by me as to the people that maybe on the beach on a Sunday afternoon.

Q All right, sir. And, the people that came together, where ever they came together under the name of Operation Goliath, what are there names?

THE WITNESS: Your Honor, I'm not trying to avoid this question.

THE COURT: Well, you are. You're dancing all around it. Hell, obviously you have knowledge of some of them. If you are fencing with him, I ask you not to do [p. 218] that. I ask you to answer the man's question.

A In specifically, what names are you requesting?

Q I'm just asking, I'm trying to use your terms –

THE COURT: Never mind. Answer the question, sir.

THE WITNESS: All right, sir.

A People, that in trying to answer your question, people that may have come together under the name of Operation Goliath, I can think of an individual named Kent Smith, and individual named Mary Ellen Smith, individuals Alex Troisi.

Q Could you spell that for me, sir.

A I'm not sure of the spelling. I believe it's T-r-o-i-s-i.

Q All right, sir.

A Individual Jennifer Troisi, individual John Racine (phonetic), individual Lynn Racine. I'm not sure how far to go here. Again, I could describe names of individuals that I have seen at a prolife rally. I'm not sure how many –

Q Let's just make sure, the name Operation Goliath was coined by whom? Who came up with that name?

A I believe originally it was based out of Dobbs Ferry, New York. That's were I first heard the term.

Q All right, sir. And, you are the first person to use that term in Florida so far as you know?

A So far as I know.

Q All right, sir. And, so Operation Goliath was a [p. 219] camaign [sic] which began and provided leadership for?

A I was involved with some of those individual mentioned in bringing this campaign.

Q Yes, sir. And, you were the person who initiated the campaign under that name and you were one of the leaders of the campaign known as Operation Goliath?

A I was regarded and titled at some time or another as director of the campaign.

Q All right, sir. And, were there any other people who carried titles of that campaign other than you?

A No.

Q All right, sir. Now, the slogan, did Operation Goliath have a slogan?

A Well, the basis for the title comes from scripture from the Bible referring to Goliath being the giant, David being the teenager at the time and the fact that David was able to bring down the giant, and as we refer to the abortion industry as a giant.

Q Was there ever any reference in the Florida Operation Goliath literature to Operation Goliath being the meanest and best armed of all the anti-abortion organizations?

A I don't have specific recollection of that.

Q Do you recall using the term "best armed" at any point?

A I don't recall that.

[p. 220] Q All right, sir.

A I'm not denying it, but I don't recall it.

Q I'm sorry. I had a piece on it. I can't find it. I'll return to that in a moment.

Now, Operation Goliath did put out literature referring to Operation Goliath; is that right?

A Yes. There was literature with that title.

Q And, that was done in the period of fall, 1990 to fall 1992?

A To the best of my recollection.

Q Do you recall any literature being distributed after that time?

A Not to my recollection.

Q Okay. Now, what was the purpose of Operation Goliath?

A The purpose of Operation Goliath was to bring an end to abortions in America.

Q All right, sir. How was that to be done?

A That was to be done through exposing the abortion industry.

Q And, how was that to be done?

A That was to be done by providing information about the abortion industry, by providing alternatives to those seeking abortions, to providing assistance to those seeking abortions.

[p. 221] Q Okay. Let me go into each of those. How were you bringing information about abortions?

A Information about abortions as far as the Melbourne area is concerned is typically provided through sidewalk counselors that stand out on the sidewalk areas in front of Aware Woman.

Q Okay. Was it a part of the process of Operation Goliath to try to find out the names of physicians and staff people associated with a clinic and to send out literature concerning those people?

MR. WEISS: Your Honor, I'm just going to have to interpose and objection with regard to time frame here. We're here on sanctions. Is this pre-order, post-order?

MR. D'ALEMBERTE: It's any time in the period of fall 1990 to the fall of 1992 when he said it existed. That would be overlapping the time of the injunctive order entered in the fall of 1991.

MR. WEISS: The only purpose of the objection is we need to know when these activities took place. To be held in contempt, it would have to be post your injunction.

THE COURT: I gather you will tie it in.

MR. D'ALEMBERTE: I thinks that's correct, Your Honor. I'm having a little bit of difficulty finding out even the basic data. And, I'm struggling through. And, [p. 222] I'll try to get to that point. It's obviously the point I want to reach.

Q I need to know if literature was sent out?

THE COURT: Your response, please.

A Could you repeat the question, please.

Q I wanted to know whether in the period that Operation Goliath existed as a campaign, it sent out literature?

A As an official organization, the only literature that I'm aware of may have been a newsletter. I'm not aware of personally sending out any literature relating to the –

Q All right, sir.

A – doctors and things that you asked.

Q May I ask you if you recognize the phone number area code 407-723-4094?

A It sounds familiar. I'm not –

Q All right, sir. You don't know whose number that would be?

A (Shakes head)

Q Now, let me show you Plaintiffs' Exhibit BB, Bravo, Bravo, Your Honor, for identification and ask you if you recognize that piece of literature.

MR. WEISS: Can we establish a time frame, Your Honor, we're being held in contempt of court.

MR. D'ALEMBERTE: In so far as I know, Your Honor –

[p. 223] A I believe this a flier that was copied from the group in Dobbs Ferry, New York that I previously mentioned and was used prior to the formation as in introducing the next phase of the prolife movement.

So, I believe that this would have been published in the fall of 1990.

Q And, published in Florida?

A I would believe that to be true. I didn't publish it so I'm not positive. I would assume that's true.

Q But, it has a 407 area code there.

A Yes, it does.

Q And, you were the director of Operation Goliath in Florida?

A I was titled a director of that campaign.

Q All right, sir. And, would you look at the top of that now and see if there is some reference to Operation Goliath being the meanest, best armed organization?

A Yes. Your Honor, may I question since this was dated by my testimony as the fall of 1990, if this is relevant?

MR. D'ALEMBERTE: Your Honor, I don't think it goes to any violation of the injunction. It goes to the idea that during this period of Operation Goliath was stying itself as a mean, well armored organization that engaged in certain activities, the details of which I [p. 224] hope to get from this witness.

MR. WEISS: Since we're here –

MR. D'ALEMBERTE: None of this relates to your clients, it's my understanding, Mr. Weiss.

THE COURT: I don't read that as referring to the organization. It refers to Goliath as being the biggest, meanest, most threatening, best armored champion of the Philistines. And, as he indicated, David, which I gather corresponds to his group is taking on Goliath.

MR. D'ALEMBERTE: Honestly, Your Honor, it confused me because the organization was named Goliath and I thought they were claiming to be the meanest, best armored. But, I'll move from that if that's what the witness –

THE COURT: Ask him.

Q Is that – is the Judge's explanation your explanation?

A Yes, it would be. We would refer to ourselves as David, in the biblical scenario of David and Goliath and the abortion industry as Goliath.

Q All right. Now, you've indicated that your purpose in conducting the campaign was to close down abortion clinics; is that correct?

A No, sir. That's not correct.

Q Please tell me what the purpose was.

[p. 225] A Our purpose was to bring an end to abortion in America. We never stated that our desire was to close an abortion clinic, merely to stop the act of abortion.

Q When you say we never stated that, who are you including in the we?

A Any one that I've heard –

Q All right, sir.

A – of the people that were named earlier.

Q As a step along the way to ending abortion in America, do you seek to close down the abortion clinics?

A No, sir. Never.

Q Okay. Did you attempt in any way to slow down the operation of the abortion clinic?

A No, sir. Our acts have been designated specifically against the act of abortion, not against the business.

Q And, did you also in connection with Operation Goliath or with any other organization you've been involved with, and now I ask in the time frame since October of 1991, been involved with directly confronting people who are doctors or staff people in the work of the clinic?

A We have certainly confronted. I'm not sure about directly.

Q Let me go to some specifics, if I may. You've heard testimony, because I think you were in the courtroom, about an incident at the Comfort Inn relating to a witness who [p. 226] testified yesterday. Were you at the Comfort Inn at that time?

A I was not on the property of the Comfort Inn. I was, in fact, the furthest distance away from the Comfort Inn over by McDonalds on the public sidewalk.

Q Were you one of the people that put together that campaign to go to the doctor at the Comfort Inn?

A No, sir.

Q And, what was the leadership of the campaign?

A I honestly don't know. I showed up with a reporter, drove separately and was doing an interview for most

of the morning and held a sign toward the end of the morning.

Q And, you just happened to be at the Comfort Inn at that time.

A No. I heard that there was going to be an activity there related to the IMPACT team.

Q To an IMPACT team?

A Yes, sir.

Q Okay. Now, we're into another term. What is an IMPACT team?

A The IMPACT team, IMPACT stands for the Institute of Mobilized Prophetic Activated Christian Training. There's a twelve week training school currently taking place in Melbourne, Florida.

Q Are you connected with IMPACT?

[p. 227] A As a volunteer, I am assisting with the IMPACT training school.

Q Who organized IMPACT?

A I believe that the organization and origination was with Operation Rescue National.

THE COURT: Operation what, sir?

THE WITNESS: Operation Rescue National.

Q And, who individually was the organizer?

A I believe Keith Tucci is the executive director of Operation Rescue National and this was his original concept.

Q All right, sir. And, are you an officer in Operation Rescue National?

A Not an elected officer. I've been titled as the field director for Operation Rescue National.

Q And, the field director for what region, if you will?

A For the southeastern United States for the United States for Operation Rescue National.

Q And, the IMPACT training program is taking place in your region; is that correct?

A In Melbourne, Florida.

Q And, have you actually taught in the IMPACT training program?

A I have assisted with the teaching. I am not one of the listed teachers.

[p. 228] All right, sir. Now, how often have you taught in that IMPACT training program?

A I'm typically in the classroom for at least a few minutes very day. I believe we are in our tenth week. At sometimes I lead the prayer in the mornings. We usually pray for thirty to forty-five minutes at the beginning of class.

I believe actually teaching that I may have taught for one day, one and a half days back at the beginning of the class.

Q And, what was the subject of your teaching, Mr. Cadle?

A The main topic was library research, being able to use public access information to do research, primarily to find out about malpractice lawsuits.

Q And, have you been present during the course of teaching at the IMPACT training programs on virtually every day?

A I have been in the classroom at least a few minutes virtually every day.

Q Okay. Now, what's –

A I have not presently through the teaching.

Q Okay. Now, who is attending IMPACT training?

A There are twenty-two students.

Q And, what are there names?

A I don't have all their names.

[p. 229] Q Let me have the names you do have.

MR. CADLE: Is this in any way related, Your Honor? This is not a named defendant. I believe this is totally irrelevant.

THE COURT: If it were discovery, it could lead to admissible evidence. I don't know that we're in discovery.

MR. D'ALEMBERTE: Your Honor, we're not, but here's what we're dealing with. We've dealt with Operation Rescue, the national organization, with Operation Rescue now being called Operation Rescue National. Mr. Cadle has indicated that he is the director for the southeast region of Operation Rescue National.

They now have a school. And, the school now trains people, we'll find out in a moment about the nature of that training. And, we've already had testimony that they then stage demonstrations.

We've seen some of the direct evidence. We've also heard testimony about those demonstration. I think we're entitled to know if, indeed, Mr. Cadle, although may be not himself blocking facilities had encouraged other people to do so. It's a clear violation of the injunction, the original injunction and the one entered in September of 1992.

MR. WEISS: That's not the question asked. The [p. 230] question was who are the names of the students.

MR. D'ALEMBERTE: That's right. Because we need to identify those people with the information we've got about the people who have been engaged in this activity.

MR. CADLE: They're not defendants in this action.

MR. D'ALEMBERTE: I understand that.

THE COURT: You raised the issue as if it were that they have some right to privacy. I don't know that there is a right of privacy that pertains under Florida law.

The question is whether its relevant.

MR. WEISS: That's the basis of my objection, Your Honor. Relevancy and materiality. They're holding sanctions against Mr. Cadle. Who attended this school is irrelevant.

THE COURT: Counselor, the injucntion [sic] includes the phrase "directing others." To the extent the injunction contains that, then others become relevant.

MR. WEISS: Judge, if he'd ask the question, did he direct others to trespass, that's a relevant question. The names of the students at this point are irrelevant.

THE COURT: I think he's entitled to know who they are and to, of course, seek information from them. An injunction really is not the end of the case. In other words, it's not yet over. Overrule the objection.

MR. CADLE: Your Honor, may I state for the record, [p. 231] that Operation Rescue National, the organizing group for this training school is not a named defendant nor is the IMPACT team training school.

MR. D'ALEMBERTE: Your Honor –

THE COURT: But, you participate in it, sir, and you are under specific injunctive requirements of this court. And, I think you may – I think it's proper for him to inquire of you as to what your activities are and who is involved and then perhaps talk with others about what that involvement is.

MR. D'ALEMBERTE: Yeah. And, Your Honor, I don't want to leave this question of names. But, I do want to see an exhibit, I think it was in evidence, the letter from Mr. Cadle.

Q Mr. Cadle, this letter marked Plaintiffs' Exhibit Four, which you've signed; is that correct?

A I don't believe it's my personal signature. I believe it was signed on my behalf.

Q But, under your authorization?

A I believe so, yes.

Q All right. That was sent on out on the letterhead of what?

A Operation Rescue National.

Q I'm sorry. Read the words again, if you will.

A Operation Rescue National, subtitled Florida Impact.

[p. 232] MR. D'ALEMBERTE: All right. Now, this was sent out, if I may, Your Honor, offer the Operation Rescue letter.

Q Would you agree that the word "National" is not in that letter?

THE COURT: It will be in evidence as Exhibit Four.

(Whereupon, Plaintiffs' Exhibit Number Four was admitted into evidence.)

Q Would you agree the word "National" is not on that?

A Would I agree?

Q Yeah. There is no reference to Operation National in the title is there? The letterhead?

A Yes, sir. I just read it. It's specifically Operation Rescue National. I believe this – Well, actually on the letterhead, Your Honor, this is a photocopy. The original letterhead would show that the whole background

behind Operation Rescue says National. If you look, that's what I was reading.

Q And, is there any difference between Operaition [sic] Rescue and Operation Rescue National?

A Yes, sir.

Q And, what is the difference?

A My understanding is that Operation Rescue was formed in 1987 by Randall Terry as the founder of Operation Rescue. My understanding is that that organization was defunct as of [p. 233] some two to three years ago. I read that in all the national media.

The federal courts had intervened. Operation Rescue no longer existed. My understanding is that Randall Terry currently refers to himself as the founder of Operation Rescue.

Operation Rescue National, to my understanding, was founded some three years ago by Reverend Keith Tucci based out of Summerville, South Carolina. That is the organization that I am associated with.

Q And, is it your testimony Randall Terry has no contact with Operation Rescue National?

A No, I would not say he has no contact.

Q All right. Now, the pending question was if you will now give us the name of the people who are enrolled in Operation Impact. Florida Impact.

A By recollection?

Q By recollection.

A I'm sure I cannot recall the names of twenty-two people.

Q I'll try to help with that.

A And, I've not seen identification on any of these people. I believe that a Michele King is a member of Operation Rescue National's IMPACT Training School. A Meredith Raney is a student in Operation Rescue National's [p. 234] IMPACT Training School. Chet and Joanne Galliger (phonetic) are students with Operation Rescue National's IMPACT Training School. Brent Cadle is a student of Operation Rescue National's IMPACT Training School.

Q Is that your son?

A Yes, sir. It is.

Q How old is he?

A He's sixteen years old, not twenty.

Q All right. What is his first name again?

A Brent, b-r-e-n-t. I believe Richard Blynn (phonetic) is a student with Operation Rescue National IMPACT Training School.

Q Spell that last name.

A I believe it's B-l-y-n-n. I believe Oren (phonetic) and Ardith (phonetic) Cooper are students of Operation Rescue National IMPACT Training School.

As I said, I don't have a list. I don't have that printed information or was not requested to provide that for specific names. Those are the ones that immediately come to mind.

Q All right. Now, other than Brent Cadle are the other names you've given us people who are from out of town?

A Out of –

Q Florida?

A Florida. Meredith Raney is a resident of Florida.

[p. 235] Q Okay. And, is – and the otherwise, the others, Michele King, for instance, is from out of state?

A Yes. I believe all the others are from out of state.

Q Now, if you will, describe this course being offered by Florida IMPACT.

A I would be glad to.

Q Just briefly, if you will, tell us how many weeks and what the training program consists of.

A The training program is scheduled to last twelve weeks. I believe we're through the ten weeks or this is the tenth week. The purpose of the training school originally was to raise up, train, and equip people to be leaders in prolife ministry.

Some of these students have come out of Bible school, some of them are already involved in prolife ministry and desire to become better trained so they might serve in prolife ministries in their respective locations.

Q And, is there a curriculum? Is there a book or handbook used in the training program?

A There is not a set book or curriculum as supplied by the school. There have been a variety of teachers, one,

two, sometime three different instructors each week that have come in from out of town to teach in different areas. Some of those have have had handouts. Some of those have had books [p. 236] they have previously authored, that they have used. Some of them put together outlines to use for their specific teaching.

Q All right, sir. And, who have been the teachers?

A Some of the teachers, we've had Dr. Bevery McMillan (phonetic). She's an obstetrician-gynecologist, a former abortionist from Jackson, Mississippi.

MR. WEISS: Your Honor, at this time I would interpose the same objection. The names of the teachers have absolutely nothing to do with the sanctions that have relevancy or materiality to this issue.

THE COURT: For the same reasons earlier mentioned, overruled.

MR. D'ALEMBERTE: And, Your Honor, I might say again, if it will help counsel –

THE COURT: Overruled.

MR. D'ALEMBERTE: I don't think it refers to his clients.

Q All right. Dr. McMillan, who else? Just the names if you will.

A Dr. Beverly McMillan, she was a former abortionist.

Q Just the names, if you will.

A The Reverend Pat Mahoney, Reverend Paul Schenk.

THE COURT: Spell that, please.

THE WITNESS: I believe it's S-c-h-e-n-k.

A Reverend Rod Aguillard.

[p. 237] THE COURT: Would you spell that for me.

THE WITNESS: I believe it's A-g-u-i-l-l-a-r-d.

A Reverand Richard Exley. I believe that's E-x-l-e-y.

THE COURT: E-x-l-e-y?

THE WITNESS: I believe so.

A Randall Terry, Reverend John Kelly, Steve Wood. If I had a brochure, I could probably remember the rest. I'm not sure. There have been some that I have not been personally familiar with nor been in the classroom when they've taught.

Q I think you referred to a brochure. Is this the brochure you're – I'm showing him Plaintiffs' UU for identification. Is that a brochure?

A Yes. Reverend Gordon Peterson and Reverend Flip Benham.

THE COURT: What was that name again?

THE WITNESS: Flip, F-l-i-p, Benham, B-e-n-h-a-m.

A I believe that's all.

Q Okay. Now, in conducting this IMPACT Training, is there some field exercise in which the IMPACT training uses?

A The basis for the training is to teach students to implement those things that they're being trained in. So, typically although not everytime, the teachers that have come in have that have taught on a particular subject. And, usually the student go out and apply or part of their homework or assignment related to the teaching is to go out and [p. 238] apply those things that they've been taught.

Q Okay. And, during the time the students are in this school are they connected with the school and the school's operations during their entire time? Are they –

A No. They're individual agents.

Q Are they living in a school dormitory?

A No, they're not.

Q Are they kept together in anyway at all during the day? Are they housed at a common place, that kind of thing?

A In a classroom setting.

Q Only in the classroom. I noticed, I believe, in some literature that residential arrangements were also made for these people from out of state?

A They're staying in individual family homes –

Q All right, sir.

A – different families in the community.

Q All right, sir. In terms of a participation in demonstrations when they're in the IMPACT training, do they all participate as a class in the IMPACT training?

A Typically they would participate as a class. They often times have individual assignments. There may be teams of two. They maybe divided up in a number of different directions.

Q Let me ask you if any of these field exercises have been involved in residential picketing?

[p. 239] A Yes.

Q And, would you describe the nature of that residential picketing?

A Are you asking to describe what is residential picketing?

Q No. The exercises they were engaged in.

MR. WEISS: Your Honor, I'll interpose another objection. Your decree says trespassing, sitting in, blocking, obstructing ingress, egress from a facility in which abortions are performed. The relevance of these folks going to these residential dwellings with respect to imposition of sanctions here today is irrelevant.

It says abortion clinics. That's what they're prohibited from doing in paragraph one of our order. And, two, is abusing persons entering or leaving abortion facilities or directing others to take that action.

MR. D'ALEMBERTE: That's exactly the point, Your Honor. By going into residential picketing, embarrassing people in their – in their residential areas. The idea is to try to discourage people from either going to – going to participate in the activities of the clinic. That's the whole purpose of residential picketing.

MR. WEISS: It's also not a violation of your order, and therefore, irrelevant. How are they going to be held in contempt of an order for picketing? Can they be held [p. 240] in contempt for picketing residents when it wasn't told that, no, they can't picket in front of a residence. I mean, the First Amendment still holds.

THE COURT: It depends on the extent of picketing. If the picketing was so intense that they couldn't leave their homes, then it's interferring with whatever their businesses are. If their business is one of these businesses, then that is an interference at the residence of the business.

MR. WEISS: Your Honor, it's just that your order says trespassing, sitting, blocking, and obstructing, blocking ingress and egress from a facility at which abortions are performed.

Two, physically abusing persons entering, leaving, working, or using the services of the faciltiy [sic].

Three, attempting or directing others to take those actions.

Residential picketing is not anywhere mentioned in here. I don't see the relevance of it.

CADLE: I believe, in fact, Your Honor, it relates to motion two of this order.

THE COURT: Again, under the theory that I spelled out, it depends on how intense the picketing is. Conceivably the evidence might reveal that it's so intense, you know, that persons living there just don't [p. 241] leave out of fear. Which would then interfere with these clinics.

I don't know. You know what the evidence is more than I do.

MR. WEISS: Judge, I got notice of this on Monday. I know about as much about this as you do.

MR. D'ALEMBERTE: Well, I think I can tell Mr. Weiss all that is the really important thing to know for his clients, I don't think any of this relates to his clients, Your Honor, of this witness at this point. I'll be happy to inform him when I get into something that does.

May I continue, Your Honor?

THE COURT: If you would.

Q Mr. Cadle, we saw one example of residential picketing on a video tape. You were in the room; were you not?

A I was in the room during the video tape, yes, sir.

Q Now, is there another form of residential picketing that gets a lot more personal as to the people who are targets of residential picketing?

A I would not refer to what we saw in the video tape as residential picketing.

Q All right, sir. Then tell me. That might help draw a brighter line. Have there been some activities, in fact, [p. 242] where IMPACT team members have actually taken literature around to neighbors?

A Not that I've been involved in or have firsthand knowledge of.

Q All right, sir. But, do you know whether that has been a technique of rescue – of rescue – of Operation Rescue Florida IMPACT exercises?

MR. WEISS: Objection, your Honor. It calls for a hypothetical.

MR. D'ALEMBERTE: No. If he has knowledge of it is all I'm asking. No hypothetical. Does he know it.

A I have no firsthand knowledge. I – To the best of my recollection, I have not been on a residential picketing excursion, if you will, with the Florida IMPACT team.

Q All right, sir.

A I was present – At the video showing, I was present there that day having a prayer vigil.

Q But, you don't define that as residential picketing?

A I personlly [sic] don't, no.

Q Okay. Now, have you any knowledge, whether first hand or not, of residential picketing in which people's homes are visited and their driveways are blocked and their doorways are blocked?

A I have knowledge of anyone whose driveways or doorways being blocked. I have secondhand knowledge of [p. 243] residential picketing, meaning walking with a sign. My definition is to walk with a sign on the public right-of-way in a neighborhood.

Q And, that secondhand knowledge is from hearing from Florida IMPACT, from people associated with Florida IMPACT training program that's been done?

A Yes. And, I've personally participated in times past –

Q All right, sir.

A – in residential picketing.

Q Now, how about the passing out of literature to neighbors relating to the identity of people and making accusations against staff people at the clinics? Do you have any knowledge of that being done by Florida IMPACT training program personnel?

A No, I don't.

THE COURT: What kind of literature?

MR. D'ALEMBERTE: Literature being passed out to neighbors accusing them, accusing the staff people of being murderers or that kind of thing, Your Honor. He said he has no knowledge. I'm move on.

Q Now, you saw in the video tape, did you not, a number of students from the Florida IMPACT training program were involved in those demonstration; did you not?

A I saw the students there, as well as a large number [p. 244] of other people.

Q Now, you saw some people who were doing some shouting; did you not?

A On both sides, yes, sir.

Q That's right. Now, you mentioned that Michele King was an IMPACT training student.

A That's correct.

Q Did the IMPACT training program teach students what to shout?

A Not to my knowledge.

Q Did they teach them what not to shout?

A I have been in the classroom a few minutes each day for the last ten weeks. So, I am not an expert to testify as to what's been taught or not taught during four hours or more a day –

Q Sure.

A – of classroom activity.

Q I'm only asking you to testify as to your knowledge. But, that knowledge –

A To my knowledge, the training that has been given related to sidewalk counseling was video that was shown, which I have previously seen. This video is by an instructor named Karen Black.

Q Okay. But, no instructions as to shouting? What to shout?

[p. 245] A Her instruction, her general teaching in this two hour video would be related to very soft, gentle, appeal of one on one relationship with someone entering an abortion clinic, offering them help, assistance, handing them literature.

Q You saw some shouting taking place on the video both on February twentieth and on March sixth; did you not? Shouting being done by –

A I believe so.

Q – anti-abortion protesters?

A I believe so.

Q As well, there were noises being made by others.

A Yes, sir.

Q Did you understand that that shouting was being directed toward a particular of the building?

A No.

Q Did you know where the surgical facility is in the building?

A I have no earthly idea.

Q All right, sir.

A I've never been in the building.

Q I understand. Have you ever been told what's inside the building?

A No, sir.

Q Okay. Do you know whether the Florida IMPACT team [p. 245] were told what's inside the building?

A No, sir.

Q Is there any particular reason for them to direct the shouting toward that particular area of the building as identified by the previous witness?

A I believe that probably what was taking place then, the general aspect and purpose of sidewalk counseling is first to try to hand literature and talk to and individual who is going coming into the parking area,

driveway, getting out of their car in the parking lot, walking towards the building.

Generally, any vocal action, whether it's soft, whether it's gentle, whether it's loud is directed to the parking lot where women maybe standing, maybe spending time prior to entering the building or if they come out and wait, I believe there is, at least it used to be visible a no smoking sign outside the building that you could see from the public sidewalk. And, so you see people come out and stand in the parking lot smoking cigarettes, I guess while waiting.

And, so my understanding is, the vocal action is related to those people that are visibly outside of the building.

Q All right, sir. Now, as to the words said by the IMPACT team member, do you know if they received any instruction about what to say?

A Not to my knowledge, no.

[p. 247] Q Okay. And, it's your testimony that you've never heard IMPACT team members being instructed to shout the words, words of threat at the –

A Absolutely not. If anything, the whole philosophy, the whole principle and underlying attitude of the teaching that I have seen or been present in front of would be the exact opposite.

Q All right, sir. And, so the students who would be shouting and screaming as Michele King was doing on March 6, 1993 were actually violating the IMPACT team training?

MR. WEISS: Your Honor, I don't think –

A No, sir.

MR. WEISS: – it's been established that Michele King has been screaming. I don't think she's ever been identified by name.

MR. D'ALEMBERTE: She was by name while the video tape was being shown. And, it was on the three, six, ninety-three video tape at twelve forty.

THE COURT: I believe that's correct, counselor.

Q And, the screaming was quote we will be everywhere. Quote no peace, no rest. And, there was said before avenge, but avenge was said. And, she said something about your worse nightmare. That was at approximately twelve forty on that tape of three six, ninety-three.

Do you know whether or not Michele King, who you [p. 248] said was a student in Florida IMPACT, was counseled not to shout such things?

A I have no idea. I don't even know if I was there at the time.

Q Okay, sir. Now, you also saw a woman on February 20, 1993, who was identified as Jessica. I don't believe you named a student named Jessica. Is there a such person who is a student?

A Yes, I believe there is.

Q Is that her we saw on video tape indentified by the witness as Jessica, a thin young lady with a pony tail and jeans?

A I don't recall who was pointed to.

Q What is Jessica's last name?

A I do not know the spelling. The last name is Oochman (phonetic).

Q All right, sir. And, do you happen to know where she's from?

A No.

Q All right.

A I believe North or South Dakato [sic].

Q Okay. And, you also saw some ladders being engaged, actually ladders where people were up over the fence and shouting into the clinic. Did you see that on the video tape?

A I believe so, yes.

[p. 249] Q Do you recognize the people who were on ladders?

A I don't recall at this time.

Q All right. Now, there was one ladder with a man holding up a sign identifying on the sign a significant other of some woman who was in the clinc [sic]. Do you know who that man was?

A I don't recall at this time.

Q Do you remember seeing that incident that day?

A I don't remember – I remember seeing it on the video. I didn't pay attention to the video as to who that man was. I don't remember if I saw it that day or if I was

there that day. I don't know if I was there at all for these demonstrations.

Q I understand. Do you know whether it is a technique of putting up ladders on the fence and holding up signs over the fence and shouting to people inside the clinic over the fence; is that part of the training of Florida IMPACT?

A Not to my knowledge. For years people have set up ladders so they can get up over high wooden fences and be able to speak to women coming in. That has been a common activity by a variety of people.

Q It's peeping over fences. Why do you think the fences are put there?

A At one time we had access to the property behind Aware Woman with permission of the owner of that property. [p. 250] So, sidewalk counselors were not on the sidewalk, but were allowed to stand behind the property and offer literature and try to talk to women as they came in.

Q You think privacy?

A I believe it was put there so the offers of help would not be heard by the women.

Q So, the privacy of the woman has been protected.

A I don't believe it has anything to do with privacy.

Q All right, sir. Have you had continued contact with Randall Terry?

A Continued contact?

Q Uh-huh.

A He was present here several weeks ago. He came and taught for a day at the IMPACT training and spoke at a Friday night rally in Palm Bay, Florida.

Q Has that been the way it's been conducted, there is a week of training in Florida IMPACT, followed by a Friday night rally, and Saturday demonstration at Aware Woman Clinic? Isn't that the way it's been working?

A Typically, there has been one, two, probably at the most, teachers during a week. One may come in Monday and Tuesday. Another may come Wednesday, Thursday. And, another may come in on Friday. Whoever is there teaching at the end of the week speaks at a public rally on Friday night.

Q Now, have you see Mr. Randall Terry quoted in the [p. 251] press as saying that the objectives of the activity are to make those involved in clinics as miserable as you can through embarrassment and intimidation. Have you heard Mr. Randall Terry say those words?

A Have I seen that in the press?

Q Or, first, have you seen it in the press?

A No, not to my knowledge.

Q Have you seen or heard Mr. Randall Terry express that general philosophy?

A I cannot recall hearing him say those words.

Q Or something similar?

A I've heard him preach sermons in a number of churches on a number of different occasions. I don't remember those specific words.

Q All right, sir. Did you see the A. B. C. World News Report on March eighteenth, 1993?

A The evening news?

Q Uh-huh.

A I don't believe so.

Q All right, sir.

A I'll be honest. There is so much news. I can't recall specifically.

THE COURT: What date, counselor.

MR. D'ALEMBERTE: It was March 18, 1993, Your Honor, evening news report in which Randall Terry –

[p. 252] MR. WEISS: I believe Mr. Cadle said he didn't hear that report.

Q Did you hear Mr. Terry make that statement?

A I don't believe so.

Q Okay. Let me show you, well, first of all, let me follow up. Are you involved in fund raising for your ministry?

A I am involved in personal fund raising to support myself, yes.

Q And, have you sent out fund raising letters?

A Yes.

Q And, does the appeal for funds include references to what has been accomplished by your movement?

A Probably so.

Q Okay. Is it part of your claim to accomplishment that you have actually been able to keep people away from clinics?

A I don't believe so, no.

Q Okay. That you slowed clinics down?

A I don't believe so, no.

Q Now, have you actually sought a business license from the City of Melbourne?

A Have I personally?

Q Are you for any organization that you represent?

A For private business purposes, yes.

[p. 253] Q Other than the realtor business, I'm talking about a business now connected with the anti-abortion movement.

A I sought a private business license for a private business.

Q Connected with the anti-abortion movement?

A Allowing facilities to be used by prolife movements.

Q What is that business?

A Christian Marketing Services.

Q That brings me back to my first question about the organizations that you belong to. Now, I think we've

established Operation Goliath, Operation Rescue National. And, if you will give me the other organizations or movements that you are connected with or other campaigns.

A I'm not trying to avoid the question. Christian Marketing Services is a private business. So, I did not mention it previously.

Q Okay.

A It's a for profit corporation.

Q Okay.

A So, it's a private business that I just mentioned, not an organization.

Q Okay.

A In my mind not an organization.

Q What is its business just so we'll –

A Just marketing and public relations.

[p. 254] Q Connected with the prolife movement?

A Not directly, no.

Q Indirectly?

A Well, it's allowing facilities to be used by members of the prolife movement for ministry office space.

Q And, Operation Rescue National, Operation Goliath, any other organizations that you are associated with or movements or campaigns.

A My personal support is raised through an unincorporated religious association of the Prolife Action Ministries.

Q Okay. Is that just an informal organization or –

A It's an unincorporated religious association.

Q Okay. Does that now exhaust all of the organizations or movements or campaigns that you've been involved with?

A I believe so.

Q Now, you mentioned that Mr. – I'm sorry – Mr. Meredith Raney was a student at this school. Do you know to what extent Mr. Raney's activities in the period since the first of this year were activities encouraged by the Florida IMPACT training program and what extent they were things he was doing on his own?

A I have no idea what he does on his own. I know that he is in the classroom typically with the IMPACT training [p. 256] school and if the school goes as a group somewhere, then he is typically with the group.

Q Let me ask you, if I may, Mr. Cadle, there were some wanted posters that have been seen in the courtroom earlier. Have you ever participated in the printing up or distribution of these wanted posters relating to staff or physicians of the clinics or owners of the clinics?

A Not to my knowledge. I'm familiar with them. I've seen them for several years, different types of fliers. I've seen different types of wanted posters from other states, from other areas. I've seen the local ones that have been discussed.

I've not been – I have not authored one. I've not been involved in printing and distribution. I've probably held them in my hand. I may have handed one to someone. I don't recall any specific instances.

Q And, you've not collected them to take them out and distribute them to places.

A Not that I recall.

Q And, if you now, at any point, distributed literature in the wanted poster form or some other kind of identifying material in neighborhoods related to staff or physicians or owners of the clinics?

A I don't recall having done that.

MR. D'ALEMBERTE: Okay, Your Honor, may I just [p. 256] have a moment?

Q Have you been engaged in anyway with taking license tag numbers and looking up the license tag numbers and doing mailings to people who have been at the clinic.

A I have looked up license numbers. I don't believe I've mailed any literature to people. I've taken people's license number and gone to the tag office where you buy your license tags.

Q What did you do with the information when you got it?

A It's been several years since I've done that.

Q Uh-huh.

A I believe that in one instance we were not – we were curious as to who the abortionist that was coming to

Aware Woman was. I took the license number, went to the tag office. They looked it up for me. They provided the abortionist's name who was coming from Jacksonville, Florida.

Q That's all you did?

A The next time I was able to call him by name as I talked to him.

Q But, no mailings or residential picketing directed towards that person.

A Not toward that individual, no. That's been several years ago.

MR. D'ALEMBERTE: May I just have a moment, [p. 257] Your Honor?

THE COURT: Sure.

Q Okay. Just a couple of names. Do you know Mr. Al Noah (phonetic)?

A Yes.

Q And, who is he?

A I believe he resides in the Orlando area. I've never been to his home. I've met him probably on two or three occasions at prolife activities. Perhaps at a rally. I believe he's come over to some of our Friday night rallies.

Q Okay. And, do you know whether he is a member of any movement or organization?

A I have no idea.

Q Have you identified him at all with Rescue America?

A Not to my knowledge.

Q Okay.

A I believe he did come to Baton Rouge, Louisiana this past summer. Operation Rescue National held activies [sic] there. And, I believe that he came there.

Q Okay. Now, one term which I did not ask you to identify earlier was rescue. What is a rescue?

A Proverbs twenty-four eleven, from the Bible says to rescue those who are unjustly sentenced to death, not to stand back and let them die. And, Proverbs verse twelve says if we didn't know this, does not God who knows our hearts know that [p. 258] we knew and judge us accordingly?

So, I believe that a rescue is anything that tries to stop someone who is being unjustly sentenced to death.

Q All right, sir. And, is disrupting a clinic operation a part of the rescue tactic?

A Not to my knowledge, no.

Q All right, sir. And, did you know a reporter by the name of Cheryl Reed for Florida Today?

A As I recall she, some years past worked at Florida Today. I don't believe I've spoken to her or seen her in –

Q Okay.

A – in several years.

Q Do you recall talking to her about your definition of what a rescue is?

A Not at all. I haven't seen her, to my knowledge, in several years.

Q Okay, sir. Do you know if you talked this year to a reporter named Stephanie Rice of Florida Today?

A I talked to Stephanie, probably at least fifty times this year.

Q Do you recall being interviewed for an article which appeared on February sixteenth of 1993?

A No.

Q Do you recall telling Stephanie Rice the following, "Part of what the students" in context if you'll accept this [p. 259] as students at IMPACT. "Part what the students are doing is gathering the information on the employees and we'll be increasing this Cadle said adding that they were unaware two of the women no longer worked at the clinic which performed abortions. Quote I wasn't there, but I sincerely doubt that anyone chased White or did anything to endanger themselves or others. Do you remember making that statement?

A Not specifically. I believe she called me related to some activities at which, as you could tell, I wasn't there. I've spoken to her probably fifty times. I've done probably three hundred interviews since the beginning of the year with various media. So, I don't subscribe to a newspaper or watch the news.

Q Do you recall being interviewed by Mimi Hall of U. S. A. Today in February of this year?

A No.

Q I apologize, Your Honor, this is February of 1992 I'm referring to. February of 1992, do you recall?

A I recall being interviewed with her sometime a year or more ago.

Q Do you recall telling Mimi Hall that you had participated in putting up wanted posters around Melbourne?

A I don't recall telling her I participated. In fact, she has since run a retraction related to the statements from that article in U. S. A. Today approximately two weeks ago. [p. 260] There was a number of misstatements there that she retracted.

Q This is a 1992 article.

A I understand. She took items from that which I had denied and she printed as true. She took those items, inserted them into an article written since the IMPACT team training school had been started by Debra Sharp, another reporter for U. S. A. Today. She inserted those without her name attached to them. When we complained the false information from a previously false written article had been inserted, they ran a retraction.

Q And, you deny having put up wanted posters?

A I don't recall. I know they've been put up. I don't recall personally putting any up.

Q Okay. Do you know who put them up?

A I have no firsthand knowledge, no.

Q Do you know who put them up, Mr. Cadle?

A No, sir. I don't.

Q Okay. Did any members of your family participate in that?

A Not to my firsthand knowledge, no, sir.

Q Have you heard from any member of your family that they participated in that?

A No, sir.

Q Have you heard from anybody else that they participated in putting up wanted posters?

[p. 261] A As I previously testified, I have seen these wanted posters for years being distributed here. I am familiar with them. I've seem them. I've probably heard hundreds of conversations related to them. I don't recall any specific individuals putting them up. I don't recall being somewhere where someone put them up.

Q Okay. Do you recall in February of 1992 talking to Stephanie Rice of Florida Today and describing to her the tactic of tracing license tags?

A I don't recall talking to her a year ago, no. I'm sure I talked to her in that calender year probably at least a hundred times.

Q Let me quote a paragraph from this article in the Miami Herald, February 18, 1992, and see if this speaks, see if this seems to be a truthful statement derived from an interview with you.

"Brevard County, Operation Goliath has started tracing the license plate numbers on vehicles that women drive to visit the Aware Woman Clinic, Chapter Director

Bruce Cadle said. The clinic off U. S. One in Melbourne provides abortions, contraceptives, and pregnancy counseling."

Do you recall having given Stephanie Rice that kind of information?

A Did you say it was from the Miami Herald?

Q That's the way it looks to me. But, it looks like a [p. 262] reprint from the Florida Today.

A She's a reporter with Florida Today. I don't recall. I don't recall specific interviews from a year ago with any reporters.

Q All right, sir. Now, following the entry of the court's injunctive order in, the original order in October 1991, there were some plans made to start this IMPACT school, was there not?

A Sometime probably last spring or summer.

Q And, you actually circulated literature to bring people to Florida; did you not?

A Operation Rescue National did it.

Q And, you're southeast director of that. We've established that.

A Correct.

Q And, you knew about that plan to do that; did you not?

A I knew that they were going to include brochures related to the training school in their, I believe, their national mailing. I believe they were –

Q And, you participated in the development of those plans; didn't you, Mr. Cadle?

A In the plans for a training school?

Q Yeah. For the training school.

A Yes. I had discussions related to holding a [p. 263] training school here.

Q You helped design the program and marketing even for that – for that training program; did you not?

A No. I saw the brochure for the training program after it was printed –

Q Okay, sir.

A – this past summer.

Q And, you helped distribute the brochure; did you not?

A I probably put stacks of them on materials tables at churches or prolife rallies for people to be able to pick up a brochure.

Q Did you individually –

A I probably passed them out to individuals that were interested.

Q Did you also individually recruit people for that training program?

A I have, as I recall, I have announced at prolife rallies and churches this training school was going to be made available and encouraged people to consider people coming. I've handed out the brochures for the training schools. So, I would assume that's recruiting.

Q All right, sir. Do you know that there's also been coordination with other organizations relating the weeks ahead of this training program, I mean in the future plans in [p. 264] conjunction with other organizations to stage larger rallies?

A I'm not sure what the question is. Related to the IMPACT training school?

Q Well, the IMPACT training school is ending when, sir?

A April ninth and then the plan is to repeat the IMPACT training school this coming summer in Minneapolis, Minnesota.

Q Now, are there any plans for April ninth and tenth, in that time to celebrate the end of IMPACT training?

A No specific plans.

Q Well, how about general plans, Mr. Cadle?

A Well, typically we've been holding rallies every Friday night and then going to Aware Woman on Saturdays. The one Saturday that we viewed, they were not doing abortions on that Saturday so we held a prayer vigil over in Melbourne Beach at the Windle's condominium.

We don't have a church lined up yet for April ninth.

Q But, you're trying to; aren't you?

A For a rally.

Q But, you're trying to do that; aren't you?

A Oh, we're trying to. We've been holding rallies every Friday night. But, we have no specific plans. We have no church lined up.

Q Aren't you trying to make those plans? And, aren't [p. 265] those plans involve the recruitment of other organizations and recruitment of people from around the country to come?

MR. WEISS: Your Honor, I'm going to interpose an objection. When they held a rally, where they hold a rally, has nothing – if he asked the question are they going to instruct them in the rally to trespass and instruct them to violate the order it becomes relevant. That's totally irrelevant what church they may hold the rally in. What they do at that rally might violate it.

MR. D'ALEMBERTE: Your Honor, I'm just trying to get to the point –

THE WITNESS: We have no firm plans related to April ninth –

Q No firm plans?

A – or tenth.

Q Do you know other organizations have also sent literature asking people to come to Melbourne April ninth and tenth?

A In some literature which you showed me last night I saw a group called Youth for America, I believe it was called, encouraging young people to come here.

Q And, that happens to be the ninth and tenth?

A I believe that was the dates on it.

Q And, is that the first time you had any knowledge that Youth for America was doing that recruiting?

[p. 266] A Youth for America typically comes anywhere there's prolife activity.

Q Well, any particular reason April ninth and tenth would be specified in that literature.

A It's spring break, to my understanding.

Q And, so the thought is by going at spring break there would be a larger crowd? Is that the idea?

A I believe that they have seen fliers distributed by the Feminist Majority Fund across the country encouraging people to spend their spring break breaking Operation Rescue in Florida. So, they decided they desired to bring some young people here as well.

Q So, you would expect then the intensity of demonstrations to increase as we get into April?

MR. WEISS: Object to the form, Your Honor.

A No.

MR. WEISS: Intensity is vague and ambiguous?

What's intensity.

MR. D'ALEMBERTE: If he can't answer it, counsel, perhaps he can say so. So far as I know none of his testimony is related to your clients. This is just slowing things down.

MR. WEISS: It's still vague and ambiguous.

THE COURT: Overrule the objection.

A I have not seen any increase in intensity. We have [p. 267] been having a very similar attendance every Friday night at our rallies. We've been having a very similar attendance every Saturday with the exception of the very first rally January twenty-second, which was the memorial of Rowe versus Wade. That was a larger rally attended by more people. And, the next day there were more people in the street than would be typical.

Other than that our attendance at our rallies has averaged three hundred. It has not changed depending upon which church we were. I has not changed depending upon who the speaker was. It's very consistent on Friday nights, very consistent on Saturdays. We average probably seventy-five to a hundred people.

Q Okay. Mr. Cadle, one additional organization. Who is the Woman's Legal Action Coalition?

A I'm not sure.

Q Have you never heard of that organization?

A I have seen their literature. I've seen it in connection with Meredith Raney offering assistance to women who may have had an abortions and had damage.

Q Other than Meredith Raney, do you know of anyone else who is associated with –

A No, I don't.

Q – that?

A No.

[p. 268] Q And, Meredith Raney, for the record, is a man or a woman?

A A gentleman.

MR. D'ALEMBERTE: That's all I have. So far as I know, none of the testimony related to his clients. I think we said that earlier.

THE COURT: He has a right to cross.

CROSS-EXAMINATION

BY MR. WEISS:

Q Any of the organizations of which you're a member, since the entry of this judge's order, have you ever instructed anyone to trespass on, sit in, block or obstruct engress into or egress for any facility at which abortions are performed in Brevard and Seminole County, Florida?

A Absolutely not.

Q Have you at any time, yourself or instructed anyone to physically abuse any person entering, leaving, working or using any service at any facility at which abortions are performed in Brevard or Seminole County, Florida?

A Absolutely not. I'd be totally opposed.

Q You'd be totally opposed?

A Totally opposed.

Q Have you attempted or directed any others to take any of the actions I just described above?

[p. 269] A No.

Q Have you at all times fully complied with Judge Robert B. McGregor's order?

A Yes, sir.

Q Now, with respect to Judy Madsen, have you ever seen her at the Aware Woman Clinic in your life?

MR. D'ALEMBERTE: Your Honor, this is not in cross of anything in direct. I tried to move this along by stipulating that as to this witness did not have any testimony that. And, I see no purpose to this other than wasting time.

MR. WEISS: If he's willing to stipulate my clients haven't violated the sanctions and do so in open court; we'll pack up and leave.

MR. D'ALEMBERTE: No. I said this witness doesn't have that evidence. I've already said that Judy Madsen is not a target of these contempt proceedings. We said that in our papers, Your Honor.

THE COURT: You're exploring in areas that need not be explored.

MR. WEISS: Your Honor, the testimony, the only words attributable to Ed Martin, whatsoever in this case were Mr. Snydle. That's at the Aware Woman Clinic. I want to ask what we saw, if anything, with respect to my client.

[p. 270] Mr. Snydle said –

THE COURT: Your question was about Judy Madsen.

MR. WEISS: Okay. Then we'll switch gears. We'll talk about Ed Martin.

MR. D'ALEMBERTE: Well, Your Honor, that's not in cross of anything in direct. He can call this witness back if he wants to as his witness. I did not ask him. I made that point –

MR. WEISS: Can I take him out of order, Your Honor, to ask him, so I don't have to put him back in the box to ask him.

THE COURT: So long as, you know, it's understood that he's your witness that's answering these questions.

DIRECT-EXAMINATION

BY MR. WEISS:

Q Did you ever see Ed Martin block the entrance to Dr. Snydle at the Aware Woman Clinic?

A No.

Q Have you ever personally been followed by Aware Woman activists?

A Yes.

Q What – Do you know the names of the women activists?

THE COURT: Counsel, you're switching the focus. [p. 271] The focus is on your clients, not on others who are not subject to this court's injunction.

MR. WEISS: Your Honor, if the activities of third parties and the injunction may relate, these folks may have participated in violating the injunction. I mean if their organization –

THE COURT: It maybe. But, it's not relevant to this inquiry. The inquiry is directed against your clients.

Q Have you ever made a threatening statement to a single person in front of the Aware Woman Clinic?

A Not that I can ever recall, no.

Q Have you ever made a threatening telephone call to anyone associated with the Aware Woman Clinic?

A Never.

Q Have you or any – Have you ever swarmed around a car or attempted to trap any patient, family member or clinic staff?

A Never.

MR. WEISS: Nothing further.

THE COURT: Mr. Cadle, you have a right to respond as you would if you were – if you had a lawyer representing you. Do you have any additional information that you want to bring to the court?

MR. CADLE: Yes, Your Honor.

[p. 272] I have never trespassed on the property at Aware Woman Center for Choice in Melbourne, Florida. I

have never been arrested at that property. I have never been charged with blocking ingress or egress for that property. I have never instructed others to do any of those items.

I have never violated this court's order since its origination as a temporary restraining order nor as a permanent injunction.

I have not seen Reverend Ed Martin in Brevard County for over two years. And, when I saw him, it wasn't at Aware Woman Center for Choice.

I am affiliated with Operation Rescue National. I have been affiliated with Operation Rescue National, and have participated with Operation Rescue National over the last three years.

I was never affiliated with Operation Rescue. They are totally different organizations. They are totally distinct organizations. They are totally separate organizations. I have never been connected with the Organization Rescue as it is described – as it is named in this court order.

I have been followed by staff. I have been followed by members of the plaintiffs' family. I have been followed –

[p. 273] THE COURT: I didn't let him get into that. I'm going to have to cut you off about what others have done to you. That's shifting the focus. And, the focus of this hearing are on your activities and the activities of others that are here.

MR. CADLE: So, if I have been receiving death threats, if we have been receiving bomb scares at our

churches, at our offices, and my home, these are not relevant?

THE COURT: No. They're not part of this injunction. Okay. Are you finished?

MR. CADLE: The only other thing I would like to say, Your Honor, I believe there is a total misunderstanding of the differences between Operation Rescue and Operation Rescue National. It is not a semantical difference. The directors are totally different and have always been different. They have always been in totally different locations in totally different states.

The organization that I'm affiliated with has never been legally connected to Operation Rescue. It is not a party to this court order.

The IMPACT Training School has also been listed as an Operation Rescue National activity.

THE COURT: Have either of those organizations used the name Rescue National America?

[p. 274] MR. CADLE: I've never seen that name. I think that's actually a typographical error. I've never seen that name used. Rescue America is the entity that I've seen. I've never seen the name Operation Rescue America.

THE COURT: At the time the court entered the injunction, knowing the court's use of those particular names that you now contend are totally unrelated to your invovlement [sic], why did you not bring it to the court's attention at that time that these or somebody's got the wrong names?

MR. CADLE: As far as I was familiar with Operation Rescue National, of which I'm affiliated, was just never named in the court order.

THE COURT: There are a bunch of organizations with people associated with them that you say are totally unrelated. You know if the court has made a mistake and you are aware of it, it would seem to me, it would be incumbent on you to bring that to the court's attention?

MR. CADLE: My understanding is Rescue America was being represented by counsel. And, I assumed that they would differentiate betweem [sic] Operation America and Rescue America.

My understanding was Randall Terry was being named as the founder of Operation Rescue, which I've not been connected with either of those organizations. So, I [p. 275] didn't understand that I should come and share any insight I had into other organizations I wasn't connected with, I believe. I was connected to Operation Goliath.

Okay. That's all, Your Honor.

MR. D'ALEMBERTE: May I, Your Honor?

THE COURT: Go ahead.

CROSS-EXAMINATION

BY MR. D'ALEMBERTE:

Q Mr. Cadle, a moment ago you indicated adamantly that you've never been arrested, never instructed

people to violate the injunction, never involved in trespass and so forth, you said at the Aware Woman Clinic. Was that because if you had not limited it to that place, you've have to change the statement that you had not been arrested for trespass and for going to a clinic facility and for instructing people to do these things at other –

MR. WEISS: In Seminole and Brevard County.

Q At any other place in the country.

MR. WEISS: Your Honor, it's irrelevant and immaterial what this man does outside the jurisdiction of this court. He's being held or charged with contempt of court of your order, which is Seminole and Brevard. What he does in Australia is not in the bailiwick of this sanction.

[p. 276] THE COURT: Sustained.

MR. D'ALEMBERTE: Your Honor, may I proffer this for the record so at least it's part of the record. My reason for doing this is that I believe that your injunction has been entered. And, this person has demonstrated he is certainly involved with certain activities and may have given instructions and otherwise participated in activities which, indeed, are not only in violation of this injunction but maybe illegal.

THE COURT: That goes to the second motion. The court is not hearing that. You'll have to produce that another time.

MR. D'ALEMBERTE: All right, Your Honor. Thank you, sir.

Q Now, on the point I wanted to inquire on, Mr. Cadle, was the idea that these organizations are totally different organization: Now, as I heard your testimony, you told us they were not quote legally connected. Are those your words?

A I believe so.

Q Well, indeed, they're not legally organizations; are they?

A Yes. To my knowledge they are.

Q Okay. Well, then, it's my understanding Operation Goliath has never been legally organized.

A No. I thought you were talking about Operation [p. 277] Rescue versus Operation Rescue National.

Q So, we've got Operation Goliath legally organized?

A Correct.

Q I thought you told the judge that was a campaign.

A Correct.

Q Now, Operation Rescue National, is that an incorporated organization or partnership?

A To my knowledge it is an unincorporated religious association in South Carolina.

Q All right, sir.

A I say to my knowledge. That's what's been told to me.

Q Okay. Have you ever seen any documents which demonstrate that is the case?

A No.

THE COURT: Which organization is this?

MR. WEISS: I think he was talking about Rescue National, Your Honor.

Q And, so it is an unincorporated religious organization?

A To my knowledge.

Q Have papers been filed with the Secretary of State or court somewhere that makes them such an organization or is that just arrived at by announcing there is such a thing?

A I'm not sure. I know there was litigation in the [p. 278] State of South Carolina. I heard there was some type of action related to that. And, I don't know. I know that the State stopped that action against Operation Rescue National. I don't know if that meant papers were filed with the State.

Q So, you don't know the form of the organization at all?

A No, not firsthand.

Q Do you have any other knowledge other than the fact you just know there were some legal proceedings somewhere around?

A I've been told by the director, executive director that this is an unincorporated religious organization in South Carolina.

Q So, the unincorporated association is just the same thing that Operation Goliath was? A group of people who got together –

A No. That's not my understanding.

Q What is the difference between Operation Rescue National that you understand –

A My understanding is there are documents. I don't know if they're filed with the Secretary of State. As you asked my understanding, it is an organized as a religious association and has formal documents prepared, formal minutes, officers, directors.

Q Some agreement among the people at least?

[p. 279] A That's my understanding.

Q Is your name on those documents?

A No.

Q You've never seen those papers?

A No.

Q How do you know the form of Operation Rescue? What form?

A Again, my understanding is from having been told, not seeing any documents. It's my understanding it's a D. B. A., Randall Terry doing business out of New York.

Q So, Operation Rescue, he's doing Operation Rescue?

A That's my understanding.

Q Randall Terry is a prolife activist; is he not?

A Well, he speaks at rallies, church meetings for probably every prolife organization in the country. He's probably spoken all over the country. To my knowledge, he is not connected with any formal organizations.

MR. WEISS: One more question, Your Honor.

REDIRECT-EXAMINATION

BY MR. WEISS:

Q And, he, indeed, was one of the people that came to the IMPACT School ran by Operation Rescue National?

A He came on a Friday. I said he taught. Actually he is currently the host of a two hour daily live radio talk [p. 280] show, nationally syndicated talk show.

So, the teaching, he spoke with the class in the morning. They got to participate and watch him broadcast remotely his two hour daily talk show and got to ask him questions about doing live interviews.

He participated in the rally on Friday night. And, he appeared briefly on the video we saw.

Q And, that was all Operation Rescue National?

A That's who he was here for, to teach training for.

Q So, legally they are not connected, but they are connected with Randall Terry?

A I don't understand the legal definition of connected.

MR. WEISS: I don't have any further questions, Your Honor.

MR. D'ALEMBERTE: Nothing.

THE COURT: Mr. Cadle, anything further?

MR. CADLE: No, Your Honor.

(Whereupon, the foregoing proceedings were recessed at 3:00 p. m.)

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC. INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	CASE NO. 91-2811-CA
Petitioners,	
vs.	
OPERATION RESCUE, OPERATION RESCUE, AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,	
Respondents.	

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

A hearing in the above style cause was held at 1:30 o'clock p. m., on Tuesday, the 23rd day of March, 1993, in the Courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

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[p. 285] WHEREUPON:

The following proceedings were had:

MR. D'ALEMBERTE: Your Honor, by agreement of counsel, we would not call Mr. Martin, but because you are going to call him as a part of your case.

MR. WEISS: Not based upon the testimony.

MR. D'ALEMBERTE: Just to expedite matters –

MR. WEISS: I'm not going to call him.

MR. D'ALEMBERTE: Your not going to call him. Then, in that case we'll call him now.

THE COURT: All right.

MR. WEISS: I just – He just left, Your Honor. I mean, he had a family emergency. I couldn't – I could go see if I could catch him. He's not under subpoena.

THE COURT: Now, don't do that to me. Go get him, Mr. Bailiff.

MR. WEISS: I'll go get him. Judge, I had no – He had a family emergency.

THE COURT: Oh, hog wash.

MR. WEISS: Your Honor, I'll be glad to put him on the stand. I have no problem with putting the man up

there. There's been no testimony regarding him in this court. I'll be glad to put him on the stand.

I don't mean to offend the court. And, if I've done so, I sincerely apologize.

[p. 286] THE COURT: If it's been engineered by you, you sure have, counsel.

MR. WEISS: Your Honor, I certainly did not do so and I apologize.

THE COURT: You're responsible for your clients.

MR. WEISS: I agree. He said to me, he said –

THE COURT: Then, go get him and get him back here.

MR. WEISS: I will. He just stepped out of the door thirty seconds ago.

THE COURT: Is he under subpoena?

MS. PATRICK: No, Your Honor, I don't believe we have Reverend Martin under subpoena. He's been given notice of these proceedings and we understood from counsel that he was going to be here and that counsel was going to put him on.

THE COURT: Wait for the other counsel to return.

MR. WEISS: Your Honor, he's on the way back up. And, again I want to make sure you understand it was not my intent to offend you in any regard.

THE COURT: Sure. He talked to you about leaving. You knew that he had announced him as a witness.

MR. WEISS: He's not listed on the witness list, Your Honor.

THE COURT: He had indicated –

MR. WEISS: I'll be glad to put him on the stand. [p. 287] Your Honor. I thought after no testimony whatsoever, there was need to. If you want me to put him, I'll be delighted to put him on the stand.

MR. D'ALEMBERTE: We'll call him, Your Honor as an adverse witness.

MR. WEISS: I'll be glad to put him on.

MR. D'ALEMBERTE: We could call him as a part of our case. And, I would like to state for the record, before lunch break, I had a conversation with counsel. I indicated we would work it out anyway he wanted to, I wanted to have Mr. Martin's testimony. I would put him on the stand unless he agreed to put him on the stand. Perhaps I misunderstood, because it was my understanding at that time he preferred to put him on the stand.

But, I'm quite happy to call him now as an adverse witness, sir.

MR. WEISS: As am I.

MR. D'ALEMBERTE: I thought we had an agreement. Apparently not.

THE COURT: Please come forward and take the stand.

WHEREUPON:

EDWARD MARTIN

a witness herein, having first been duly sworn, was examined and testified as follows:

[p. 288] DIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Revered Martin, would you please state your name, address, and occupation, sir.

A Yes. It's Edward J. Martin. And, the address is 2000 Northeast Fifty-First Place, Ocala, Florida 34478. Your Honor, I just ran up a flight of stairs. I'm a little winded. Okay.

Q Reverend Martin, if you need more time, we can just ease back. Do you want any water or anything?

A No. I'm fine. I just need a few minutes.

Q All right. Reverend Martin, you are a defendant in this cause?

A Yes, I am.

Q And, you understand you've been under injunctive orders of this court since the time of the preliminary injunction in this cause?

A Yes.

Q And, you were aware of the order entered by the court on September thirtieth of 1992?

A Yes.

Q Did you have some reaction to that order entered on September 30, 1992?

A Not that I know of.

[p. 289] Q Did you – Do you recall having any discussions with the press relating to that injunction of September 30, 1992?

A I don't remember, no.

Q Let me show you, if I may, Plaintiffs' Exhibit F for identification which is an article published in the Orlando Sentinel on October Seventh of 1992. It's been previously shown to counsel.

A Yeah.

MR. WEISS: I've seen it.

A Yes. That's my –

Q Okay. Was your statement quoted in that?

A I don't remember saying that, but if I did, if that's what the reporter wrote.

Q Okay. Would you publish for the court the statement you made, you're quoted as making.

A I don't even remember making a statement.

Q Would you just read for the court what's in there.

A Yes. "I'll go to the front door and save babies lives if I have to even if we have a hundred injunctions against us, Reverend Ed Martin, national executive director of Operation Rescue America."

That's false.

Q And, what is false about that statement?

A First of all, I do not anything to do with Operation Rescue America.

[p. 290] Q All right, sir. I take it that you are, however, involved in directing the work of Rescue America?

A Yes.

Q Okay. And, who is involved with you in that work?

A Where? Rescue America is a national organization. We have a man by the name of Don Tressman (phonetic). We have a man by the name of Gordon Oldhausen (phonetic). Those are the working people in Rescue America.

Q All right. And, is Rescue America an organization with a purpose of playing some role against the abortion – against abortion?

A Yes.

Q And, does Rescue America publish some literature for that movement?

A Yes.

Q And, is that literature drafted by you?

A It's drafted by numerous people.

Q All right. Now, have we identified the people who are actually the leaders of Rescue America?

A Those are the leaders of Rescue America.

Q The ones whose names have been given? You were here when the video tape was being shown.

A Yes, sir.

Q Did you see any of the people who participated in the activities of Rescue America on that video tape?

[p. 291] A No, sir. I didn't.

Q Okay. Now, what is the purpose of Rescue America?

A The purpose of Rescue America is to try to save babies lives at abortion clinics.

Q And, how do you do that?

A Well, the primary thing that I've been doing around the country is engaging churches to come out and hold prayer services in front of abortion clinics. That's my primary function.

Q All right, sir. Is there – Is it an article of faith for the people involved in Rescue America that they will follow God's law and not man's law in this activity?

A Yes.

Q And, is it also a tenent of Rescue America and the leaders of Rescue America that they will – they're willing to break the law in order to fulfill God's law?

A I do not adhere to nor do I push breaking a law.

Q All right, sir. Now, the term "rescue" as used in Rescue America and in the preaching which you, Reverend, do in connection with your activities with Rescue

America, does that refer to blocking the entrance to abortion clinics?

A I feel Rescue is saving babies lives in front of abortion clinics. Rescue is saving babies lives at pregnancy centers. Rescue is savings babies lives at homes for unwed mothers. A rescue is, as was stated before, Proverbs twenty- [p. 292] four, eleven "Rescue those that are being led to their slaughter, to their death."

You know, there are numerous ways of rescuing children from their death.

Q And, is one of those means consist of blocking or blockading access to the entrance of abortion clinics?

A Yes.

Q All right, sir. And, that is actually part of the published doctrine of Rescue America; isn't it?

A It's – The published doctrine of Rescue America has four – four things. We push the first three which is legal picketing. We push sidewalk counseling. We push prayer services. And, on the fourth thing, it's not – it's – that paper that you have there is not the doctrine of Rescue America.

That is what we feel are some of the things we can do to save babies lives.

Q But, one of those is blocking access to the entrance of abortion clinics?

A If people feel like they need to do that, I guess that's what they need to do.

Q All right, sir. Now, the document that I'm holding is identified as Plaintiff's Exhibit P for identification. Let me ask you to look at that and ask if you would publish that?

[p. 293] MR. WEISS: Your Honor, I think it's very relevant we establish the date of this document.

MR. D'ALEMBERTE: I'll be happy to try to do that.

Q When you published it, you published it when, please?

A Yes. We printed this approximately, oh, a year and a half ago, maybe two years ago.

Q All right, sir. And, who authored that, if you will?

A I authored part of it.

Q All right, sir.

A I don't know who authored the other part. I give in to various people, and after I pass it on to other people, then I don't know what happens to it.

Q Okay. But, you do know it's printed though; don't you?

A Excuse me?

Q You printed that document? And –

A I knew it was printed, yes.

Q And, you knew it was printed locally?

A I –

Q In Florida?

A In Florida, yeah.

Q In Ocala?

A I think – I'm not sure where it was printed.

[p. 294] Q All right, sir. But –

A I know it was printed in Florida. But, I don't know exactly where it was printed.

Q Okay. But, it was printed under your direction and authorization?

A Well, yeah. Uh-huh.

Q Okay. Now, on what date was that printed?

A Like I said, it was a year and a half to two years ago.

Q Okay. Now, that was the first publication. Has it been republished since then?

A No. I made a whole – I made other ones. We used to make some with the prayer service schedule on the back of them.

Q Uh-huh.

A Similar to this one.

Q Okay. And, do they contain the same message?

A Yes.

Q And, you have made some with the prayer message contained on the back even into January – I'm sorry – even into the period after the injunction of September 30, 1993 –

MR. WEISS: Your Honor, I object –

MR. D'ALEMBERTE: 1992.

MR. WEISS: The question is vague and ambiguous.

Q No, have you printed –

[p. 295] MR. WEISS: That document.

Q Have you reprinted that document –

A I haven't.

Q – with a prayer service –

A That particular document, exactly what's there I printed about a year and a half ago.

Q That's right. And, now you've referred to documents you print which have the same text, but with the prayer service on the back?

A Yes.

Q Have you done that since September thirtieth of 1992?

A Yeah.

Q You have; haven't you. Here's an example; isn't it?

A Yes.

THE COURT: Would you identify it for the record.

MR. D'ALEMBERTE: It doesn't have a number. I just obtained it, Your Honor. If we can assign it the next number for identification.

THE COURT: The first document, the label on it is what, please?

MR. D'ALEMBERTE: It in initial P, Your Honor.

THE CLERK: This is triple B.

MR. D'ALEMBERTE: Triple B?

THE CLERK: Yes, sir.

[p. 296] MR. WEISS: Your Honor, the document contains no date whatsoever on it.

MR. D'ALEMBERTE: That's right, it doesn't, counsel.

THE COURT: Counsel, was it done after the date of the injunction?

Q The document, Triple B was published after the date of the injunction; was it not, Reverend?

A Yes.

Q And, in fact, it was published sometime probably not too long after the injunction was entered?

A Actually, October, November, December, this document was probably published, it may have been published in September.

Q All right, sir.

MR. WEISS: Of what year.

THE WITNESS: Oh, 1992.

Q And, it was distributed for prayer meetings that went on into December; was it not?

A This document?

Q Yes. Let me see that document that is Triple C now – Triple B, excuse me. It actually has reference to prayer services October thirty-first, November seventh, fourteenth, twnety-one [sic], twenty-eight. Do you know what day of the week those are?

A They're Saturdays.

[p. 297] Q Saturdays. And, why is Saturday picked for the prayer services?

A Why do we pick Saturdays?

Q Yes.

A Because most people are off on Saturday and they can come attend prayer service.

Q Okay. Where – What's the location for the prayer services? Is it in –

A The location would probably be the four – the three abortion clinics that are in Orange County and the one abortion clinic that is in Seminole County.

Q All right, sir. So, this document then was disseminated to support prayer services that were conducted on October thirty-first in Seminole County and on October – November twenty-eighth in Seminole County and December twenty-sixth in Seminole County. If you need to check that, I'll give you a calendar.

A They're all Saturdays, I'm sure of that.

Q And, those prayer services were at the clinics in Seminole County on the dates that I just gave you?

A Yes.

Q All right, sir. And, that material was distributed in connection with those prayer services; was it not?

A It was distributed probably sometime in September. It was not distributed with our newsletter. We distribute [p. 298] them months in advance so we can get people, you know, to come out to the prayer services.

Q But, so long as, I can go find some others, if you want me to, some others were not – There have been others. You continued –

A Yes.

Q And, you continued to distribute this material with prayer service dates on the back?

A I'm not sure if we've done it after that – this one here.

Q I would like to show you one other document. All right, sir. If I can show you one other document. And, this is – Approximately how many of these documents have been distributed that were in the form of Exhibit P or Exhibit Triple B have been distributed?

A I have no idea.

Q Would it be in the thousands?

A I don't know how many were distributed.

Q How many – Can you give us an approximation of how many have been distributed since September thirtieth of 1992?

A I don't know how many were distributed. I distributed maybe to twenty folk. I don't know how many they distributed to.

Q Okay. And, you distributed multiple copies to people asking them to further pass out copies?

[p. 299] A If they wanted to.

Q Now, if you would look at the language on either of these. It's identical on both of these, is it not?

A Yes.

Q Look at the language, if you will, in the third paragraph on the second page. And, if you would, is this the language which you authored?

A I'm not sure if I authored this or not.

Q Okay.

A I don't remember this was – the original content of this was made over two years ago. The only thing that's been changed on this is the back, the prayer services.

Q All right, sir. Let me ask you whether you authored this or participated in the authoring of this language? This language expresses the sentiment that you expected to be conveyed through the distribution of these materials? And, I'm referring to this language quote the word rescue refers to – is it blockading access or blocking access?

A Blocking.

Q "Blocking access to the entrance of abortion clinics in this manner. We are putting our bodies between

the abortionist and his intended victim, the preborn child. While we are in place there are no babies murdered. This buys time for our sidewalk counselors to talk with the birth mothers. In most cases the clinic is shut for the day. Many [p. 300] appointments do not reschedule."

Is that the sentiment of Rescue America and your personal sentiment?

A That's what's written here. I don't believe I wrote that – that entity.

Q All right, sir. But, you did distribute it?

A I gave it to twenty people about.

Q All right, sir. If I may show you what has been marked Exhibit FF for identification and ask if you can recognize that document?

A Yes, I do.

Q And, what is that document, sir?

A That's a document from Rescue America in Houston, Texas that talks about the killing of Dr. Gunn.

Q Was that document issued by Rescue America?

A That was issued by the Houston Office of Rescue America?

Q And, that's an office that's run by Mr. Tressman?

A Yes, it is.

Q He's your colleague in Rescue America?

A Yes. Uh-huh.

Q Did you have any hand in drafting that document?

A Not one bit.

Q Did you have any hand in distributing that document?

A No, I didn't.

[p. 301] Q Was that document distributed in Florida in any way?

A I don't know where it was distributed. No, I have no idea.

Q And, it is your testimony you did not personally distribute that document in Florida?

A I don't. If I – I don't believe I distributed this document. This document was sent out by a fax machine. I personally do not have a fax machine, nor do I – nor have I used one. If I received this and I showed it to somebody, but I did not distribute it to the press or to – as a general distribution.

Q And, the thing that you are certain of, you didn't distribute it in large numbers, at least.

A I don't believe I even distributed it.

Q Okay, sir. But, you do know it was a document originated by Rescue America?

A Yes, it was.

MR. D'ALEMBERTE: Your Honor, I would like to move the exhibits identified previously into evidence. I believe they're Triple B, P and the last exhibit was what?

MS. PATRICK: FF.

MR. D'ALEMBERTE: FF.

MR. WEISS: Your Honor, the only one I would object to is the document – We've got one document that says [p. 302] Rescue America, a post office box a million digits, Houston, Texas.

And, the testimony from this witness is that he's seen it, he didn't author it, and certainly had nothing to do with it, based on his own testimony, with it's origin.

And, so hence to hold my client responsible for what somebody may have disseminated is inappropriate.

MR. D'ALEMBERTE: It was intended to be a Rescue America document. I quite agree with counsel's characterization of the testimony. I think he's quite accurate. It has been conceded by this witness who is a principal in Rescue America, that Rescue America originated this document related to Dr. Gunn.

THE COURT: Counsel, is it your contention that the designated defendant Operation Rescue America is another name for Rescue America?

MR. D'ALEMBERTE: It is, Your Honor. I think even Mr. Cadle, who is far more familiar with these organizations than I, indicated that was probably a typographical error.

The Rescue America, as far as I know is all these people. I don't know of any other Rescue America organization. I'll be happy to ask the witness himself that question.

[p. 303] Q Reverend, is there any organization that you know of that's known as Operation Rescue America?

A No, there's not.

Q Okay. Have you seen references in the press and other places to something called Operation Rescue America?

A Yes, I have.

Q And, do you read that to mean the operation of Rescue America?

A No. If they say Operation Rescue America, I guess that's what they mean. I can't tell you what the press means. There maybe an organization by the name of Operation Rescue America and I'm just not aware of it.

Q But, that you –

A I know there are other organizations that claim to be Rescue America. They may have changed their name to Operation Rescue America. They are anti-abortion groups. I can't tell you what's going on in the various groups.

Q So, as far as you know, there's no operation in Florida, operating in Florida known as Operation Rescue America?

A I don't –

Q The only organization operating in Florida, in this area, so far as you know of a similar type is Rescue America and that's your organization?

A My organization is Rescue America.

[p. 304] MR. D'ALEMBERTE: I hope that's clear, your Honor. We may need to take an amendment to conform with the evidence.

But, I think the evidence is clear not only in this proceeding, but in the prior proceedings.

THE COURT: Again, as to the last exhibit, it's relationship to the Houston office, I'm not quite sure what that is.

Q All right. Is it correct, Reverend, that there are two leaders of this organization, you and Don Tressman?

A That's correct.

Q And, Mr. Tressman operates the Houston office; is that correct?

A Yes. That's correct.

Q And, you operate out of Ocala?

A Yes. That's correct.

Q You have other people working with you, but there are two principals?

A There are other people that are affiliated with Rescue America.

Q Right. But, would it be fair to characterize this as a sort of partnership that you have named –

A Yes, sir.

Q – – named Rescue America?

A Yes, it is.

[p. 305] MR. WEISS: Your Honor, I renew my objection to this document authored out of Houston, Texas by a nonparty to this cause. He didn't participate in its authorship. He didn't know who drafted it, doesn't know how it made its way to the State of Florida.

THE COURT: I think he said by fax. He did say he showed it to at least one other when he received it, if I recall his testimony.

THE WITNESS: Your Honor, I said I may have shown it to somebody. He asked me if I distributed it. I said I might have shown it to somebody else. But, I'm not – I'm not aware of the fact that I showed it to somebody else.

I'm not aware of the fact it was faxed to Florida. I said it was sent out on a fax around the country. I don't know if it came to Florida. I don't know where it went, Your Honor. I wasn't privy to that.

THE COURT: Is Rescue America a legal entity?

THE WITNESS: Yes, it is, Your Honor.

THE COURT: What – what is its nature?

THE WITNESS: It's under a partnership out of Houston, Texas.

THE COURT: Under law, a partnership one partner is responsible for the other partner.

MR. WEISS: Your Honor, if you've got – The extent [p. 306] of this court's jurisdiction and the extent of the order goes just to the borders of Brevard and Seminole Counties. Certainly your order does not bear on what some guy would do in Houston, Texas.

If they want to sue in Houston, Texas for generating it, that's fine. But, my client testified he didn't create it. He didn't disseminate, doesn't know how it got here. He said he didn't even have a fax machine.

To hold against my client, when on its very face it says Houston, Texas is inappropriate.

THE COURT: Counsel, I think he's right.

MR. D'ALEMBERTE: Your Honor, I thought the act of a partner is the act of all partners.

THE COURT: Genereally [sic] under partnership law that's correct. An injunction is personal to this man. And, I don't know that I could find that an unnamed defendant or person not named as a defendant could do something.

The court is going to sustain the objection as to FF, I believe.

MR. D'ALEMBERTE: Thank you, sir.

THE COURT: The others will be received in evidence without objection.

(Whereupon, Plaintiffs' Exhibit Numbers Five was admitted into evidence.)

Q Reverend Martin, to your understanding Rescue [p. 307] America does conduct fund raising drives?

A Yes.

Q And, indeed this material – As I understood it the other two documents were admitted into evidence. The other brochures we've seen that have Rescue America's name, that is actually part of the fund raising material?

A No. This isn't fund raising. This happens to mention how we're – you know, that we're not tax exempt, that we are not for profit.

Q And, the money raised by Rescue America goes to where, sir?

A Goes to where?

Q Yeah.

A It goes to putting out newsletters. It goes to publishing information. It goes to travel expenses.

Q All right, sir. And, that travel includes travel around the country, around Florida, and around the country?

A Around Florida.

Q International travel?

A No. I don't think I've ever used it internationally. Normally, there's always people that, you know, from that area who will buy, will purchase a ticket for us. I'll put it on my credit card, and then they'll reimburse me for my travel expenses.

Q But, you do travel internationally?

[p. 308] A Yes, I do.

Q And, do you also publish a manual, a how to manual?

A No, I don't.

Q Have you indicated in your fund raising brochures that you intend to publish a how to manual?

A I've indicated a lot of things in my brochures. I never made up a how to manual.

Q Have you ever instructed anyone on how to block access to a clinic?

A Where?

Q Anywhere, sir.

A Have I ever instructed anyone on how to, not that –

MR. WEISS: I think the relevent point of inquiry is Seminole and Brevard County. What he may have done in Bismarck, North Dakota has no bearing on the sanctions I think are the focus of this inquiry. He's being held in contempt of what he did in Seminole and Brevard County. The rest is absolutely irrelevant.

MR. D'ALEMBERTE: Your Honor, I'll rephrase the question.

THE COURT: I believe that's a valid objection. It also has to, of course, relate to after September thirtieth.

Q Other than the brochure, which we've already agreed, has been distributed since September 30, 1992, has there been [p. 309] any other instruction about rescue operations or blocking of access to clinics?

A Not that I know of, no, in Melbourne or Brevard County.

MR. WEISS: I'm going to object to the form of the question. There is no instruction in that letter. It's not

instructing a soul to blockade any place. That's a mischaracterization of what that says.

MR. D'ALEMBERTE: I'll be happy to let the document to speak for itself.

MR. WEISS: That quoted portion, as I heard it, that phrase or phrasing that you are relying on, I'll characterize that as advising others how they operate.

The term, that's not instructing anyone to do anything. It's defining the term.

MR. D'ALEMBERTE: Could you read on, counsel? Could you read on, counsel?

MR. WEISS: Oh. "The fourth and most misunderstood aspect of baby saving in front of a clinic is the actual rescue. The term rescue refers to blocking –" typo – "access to the entrance of abortion clinics. In this manner we are putting our bodies between the abortionist and his intended victim, the preborn child. While we're in place there are no babies murdered. This buys time for our sidewalk counselors to talk to the birth mothers. [p. 310] In most cases the clinic is shut for the day. In many cases the clinic shuts for the day. Many appointments do not rescheduled."

That is not instructing anyone to violate this court's order. It's not suggesting to anyone that it is. It is a defining a term.

Q Other than the language in this brochure, has there been any other reference to rescues or the blocking of access to clinics by you since the date of any injunctive order in these proceedings?

A For the two counties mentioned?

Q The two counties mentioned.

A Not that I know of.

MR. D'ALEMBERTE: If I may offer the additional document marked for identification?

My understanding, everything except the one letter with Rescue America was received.

THE COURT: That was not received.

MR. D'ALEMBERTE: And so, FF was not received. The documents referred to earlier should be P and Triple B were received.

THE COURT: That's correct.

THE CLERK: Plaintiffs' P will be number six. Plaintiffs' Triple B will be number seven.

(Whereupon, Plaintiffs' Exhibits Numbers Six and [p. 311] Seven were admitted into evidence.)

Q This is a document, Reverend, now marked Plaintiffs' Exhibit Triple C, Charley. Do you recognize that docuemnt [sic]?

A Yes.

Q And, that's a document published by you, sir?

A Yes. It wasn't published by me, but I wrote that first part.

Q All right. At any rate, you didn't write the whole or supervise the writing of the whole thing?

A No, I didn't.

Q Who participated with you in that document, sir?

A I turned it into Judy Madsen and other people participated in disseminating information. That's all I know.

Q And, that's a document which bears a March 1993 date; does it not?

A Yes.

THE COURT: March?

MR. D'ALEMBERTE: March, 1993, sir.

Q I don't think it has a date on it, but just says March 1993. Am I correct about that, Reverend? March 1993?

A It just says March 1993.

Q All right. Thank you. And, the purpose of that was to see, if it is accurate, that frequently you also work in contact with Randall Terry? You have some connection with Mr. Randall Terry?

[p. 312] A No, I don't.

Q Would you turn inside that document, I understood – perhaps I misunderstood the reference to Randall Terry in there.

A I have no reference to Randall Terry. I didn't approve of having this put into this document. As I said, I write the first part of the document. And, I send it to Judy Madsen and then other people send in information.

This is just a notice, as far as I can tell, about Randall Terry coming to Orlando to speak. But, I had no – I knew Randall was coming. But, he has no connection with, at all, with Rescue America. We're just, as we do with any prolife organization, be it Right to Life or anybody else, if they give us notice of somebody coming in to speak, we like to advertise it for them.

Q Have you also cooperated with the IMPACT training program?

A I personally have to do with the IMPACT training program. I understand that possibly in some of the newsletters – There again, I do the first part of the newsletter and hand it over.

This is an informational newsletter. It includes things from all over the country as people write to us. It informs people in Central Florida of what's going on.

Q And, it's published under whose auspices, sir?

[p. 313] A Under Rescue America.

Q Rescue America. And, that's the organization that's a partnership of you –

A Yes.

Q – in Houston, Texas with Mr. Tressman. All right, sir. And, do you know of other organizations that intend to have demonstrations in Central Florida in the coming weeks?

A No, I don't.

THE COURT: Counsel, this pamplet [sic] that has First Wesleyan and the March sixth date. The clerk

says she first noted it as Plaintiffs' Exhibit D for identification and then it's been placed over and Plaintiffs' Exhibit P for identification, and then received in evidence as six.

MR. D'ALEMBERTE: If we could correct, I don't think we've had an Exhibit P.

MS. PATRICK: That's the incident summaries. The police incident summaries.

MR. D'ALEMBERTE: So, the references throughout this witness' testimony to P should have been Exhibit D.

THE COURT: All right. The record will be corrected.

MR. D'ALEMBERTE: It's now –

THE COURT: Six.

MR. D'ALEMBERTE: And, Your Honor, we would offer [p. 314] into evidence the exhibit just identified, the additional Rescue America document, Plaintiffs' Exhibit Triple C, March, 1993.

THE COURT: Any objection?

MR. WEISS: Just the earlier noted objection, Your Honor, that the document itself, the one without the base reference to an October, 1990 date, predate the entry of this court's injunction by some two years. Now, there's another document –

THE COURT: On Triple C he acknowledges authorship of the first part. It's not clear, counsel, where the first part ends so far as his authorship is concerned.

MR. D'ALEMBERTE: All right, sir. I think it's confusing me to.

THE COURT: It's that document that concerns me at this time.

MR. WEISS: Yes, sir. I've got problems with both of them. One with respect to the date of the document. That's the first one that doesn't have the prayer services on the back. It makes references to an October, 1990 date.

THE COURT: But, there was some testimony it was reprinted afterwards.

MR. WEISS: Not to that document. The one with the prayer services on the back was distributed after [p. 315] October. I think he said it may have been distributed once after that date.

THE COURT: Can you refer me to the identity number, please.

MR. WEISS: Two pieces of blue paper is the quickest way. The first is Exhibit Number Six that says three six, ninety-three in the upper right hand corner.

THE COURT: Okay.

MR. WEISS: That reference to that date is – Nobody in the record has established whose handwriting that was or who put that on there.

MR. D'ALEMBERTE: I think that's correct.

MR. WEISS: I've got a problem with that date and somehow that implies somehow my client, the only

date mentioned, the only date referenced in this printed literature is October, 1990.

MR. D'ALEMBERTE: I think it's November.

MR. WEISS: November, 1990, which predates the entry of your injunction. So, on that basis, I would move that this be stricken from the record. It's not germane.

The only thing on here that references post-dates the injunction is unidentified handwritten notation March 6, 1993.

And, it's not been established that my client disseminated this on March 6, 1993 at First Wesleyan [p. 316] Church. That was the hearsay objection that we got into earlier.

THE COURT: I think he's right, counsel.

MR. D'ALEMBERTE: Your Honor, again, the reason we put them in, both before and after, they indicate they continued to distribute the same literature after the injunctive order. I think the record is clear on that.

THE COURT: I don't think that the injunction – I haven't read the contents of it. The injunction doesn't go to disseimination [sic] of literature.

MR. D'ALEMBERTE: Unless it is in violation of paragraph three. But, I think the record is clear enough and honestly so long, I'm comfortable with the witness' testimony so long as the second document is in evidence and I think it clearly is.

THE COURT: Madam Clerk, I'll strike Exhibit Six. Any more questions of this witness?

MR. D'ALEMBERTE: Your Honor, let me just ask counsel a question.

(Whereupon, an informal discussion was held off the record, after which the following proceedings were had:)

Q I think there was some question just now, Reverend, about the part of the exhibit introduced into evidence.

Madam Clerk, give me the number I'm confused.

THE CLERK: I think that's Triple C.

[p. 317] MR. D'ALEMBERTE: I think that's been accepted into evidence.

THE COURT: No, I think it's been proffered. My notes don't show that I've actually put it in.

MR. D'ALEMBERTE: I would like to offer that into evidence. That's the one –

THE COURT: Again I ask you, he acknowledge that it was published and perhaps distributed by Rescue America. But, he limits his authorship to the first part. Now, I want to know where the first part was.

MR. D'ALEMBERTE: That's what I want to pick up and show him.

THE WITNESS: If I could see it, I'll –

MR. D'ALEMBERTE: Sure.

THE COURT: Show it to him.

Q I believe that there's a cover page on that, Reverend Martin, and a backside that seems to be a letter from you. Is that correct?

A Yes. What was my authorship was the – this letter here in the front, Your Honor, where is says "Love for Life Ed Martin" that was the end of the letter.

The authorship of the "Eulogy for Three Children", the let's see, "Deadline Puerto Rico", over here, and "Dateline Gainesville, Florida," "The Missionary Journies of Rescue America", and right back here in the back where it says [p. 318] last June and August eighteenth, that's all I've put in there.

Q Thank you.

THE COURT: All right, sir. If counsel would hand me that thing, it will be received in evidence as Plaintiffs' Exhibit Number Eight.

(Whereupon, Plaintiffs' Exhibit Number Eight was admitted into evidence.)

MR. D'ALEMBERTE: That's all, Your Honor.

THE COURT: Just to clarify the record, the highlighting in yellow is somebody else's?

MR. D'ALEMBERTE: No, sir. It was done by somebody else. I'm not sure. But, it was not part of the original publication; is tht [sic] right?

THE WITNESS: That's right.

MR. D'ALEMBERTE: And, if there is any writing on that, it was just in the way it came.

THE WITNESS: Evidently whoever picked that brochure up wrote on it. We don't write on it.

THE COURT: All right.

MR. D'ALEMBERTE: There maybe some on the front page too, Your Honor, in handwriting. If there is, that is extraneous to it.

THE COURT: Cross-examination?

CROSS-EXAMINATION

[P. 319] BY MR. WEISS:

Q Mr. Martin, let me show you Plaintiffs' Exhibit Number Seven, do you - did you, yourself, circulate Plaintiffs' Number Seven after October, 1992?

A No. I think it was made up and distributed in September, the early part of September.

Q Excuse me. This is a very critical question. I want to -

THE COURT: I'm trying to get the exhibits sorted out.

MR. WEISS: I understand.

Q The question was --

THE COURT: Ask it again, please.

Q Did you, this Exhibit Number Seven, has a date on the back of it, the first date entered is October thirty-one. Okay. Did you distribute this literature prior to October, 1991 - 1992, I'm sorry. I apologize. October, 1992?

A Normally we print them about two months ahead of time to get them out so people can see where the prayer services are. This thing is usually done a couple of

months because because it's just something, you know, it's distributed when people go out. It's printed up before, I would say probably in September sometime and distributed that time so people would know when to come out to the prayer services.

[p. 320] Q So, you wouldn't distribute it after - the judge's order, I think is October thirty-first, 1992. The first prayer service referenced is October 31, so this publication would have been several months prior to this entry of this court's injunction?

A Oh, yes. That's correct.

Q Now, in this Plaintiffs' Exhibit Seven, have you instructed anyone to blockade any clinic located in Brevard or Seminole County?

A In that brochure, it never at any time have I ever asked anybody to do anything in blockading clinics.

Q Now, on the back it says "prayer service". Let's talk about what you do at these prayer services.

A What we try to do is get the pastors in the churches involved. And, what we do, we go to the abortion clinics and try to stay in the most neutral spot as we possibly can, usually off to a corner somewhere, under a tree, clearly away from the door. And, you know, maybe sometimes we have ten people. Sometimes we have twenty.

And, we use a prayer service, starting with, we sing God Bless America. And, then we recite the Book of Psalms, responsive readings. And, each individual person as it goes in the prayer circle will pray. In the end I give

the pastor's benediction. And, usually it takes about an hour and a half, an hour and forty-five minutes.

[p. 321] People kind of hang around and chit-chat for a while, and they go home or they go out and get something to eat.

Q Now, there have been pastors from Orange County and Seminole County that have gotten down on their hands, gotten down on their knees and prayed in front of these abortion clinics; correct?

A Oh, yes. Uh-huh.

Q Now, is anything other than prayer taking place?

A Now, I'm strictly involved in the prayer services. At the prayer service that's all we do is pray.

Q Now, –

A And, sing.

Q Now, did I read to you and provide you a copy of the judge's injunction, both temporary and current, and have you read those prior to today?

A Yes, I have.

Q Does that injunction specifically provide you your constitutional right to pray?

A Yes, it does.

Q Did you avail yourself of the rights under the injunction, the rights under the First Amendment of the United States Constitution?

A Yes, I did.

Q Did you, at any time, trespass on, sit in, block, [p. 322] obstruct ingress into or egress from any facility at which abortions are performed in Brevard and Seminole County, Florida?

A No.

Q Did you, at any time, physically abuse any person entering, leaving, working or using any services of any facility at which abortions are performed in Brevard or Seminole County Florida?

A No.

Q Did you attempt or direct any other human being on the face of this earth to take any of the actions I just described above?

A No, I didn't.

Q Did you restrict yourself to peaceable prayer in front of clinics in Orange County, Florida?

A Orange and Seminole. In fact, Mr. Weiss, we no longer have a prayer service in Seminole County. We have prayer services in Orange County.

Q And, the reason you don't have prayer services in Seminole County is because not enough people were showing up; right?

A Nobody was praying.

Q Now, you remember Mr. Snydle saying you blocked his access or he said you stood in front of his car?

A I remember that he said that.

[p. 323] Q Did you ever stand in front of Mr. Snydle's car in Seminole or Brevard County, Florida?

A No, I haven't. I've never even seen Dr. Syndle in either county.

Q Have you threatened any employee of any abortuary in Seminole or Brevard County?

A No. No. Not one person.

Q Are you an officer or member of any organization known as Operation Rescue?

A No. I've never been a member of Operation Rescue.

Q Have you ever been a member or officer in any organization known as Goliath or Operation Goliath?

A No, I have not.

Q Have you ever been an officer or member of any organization known as Operation Rescue Amercia [sic]?

A No, I haven't.

Q Have you ever been an officer or member of any organization known as Operation Rescue America National?

A No, I haven't.

Q Have you ever been an officer –

THE COURT: Wait just a minute. He previously testified that Number Eight was published by Rescue America.

MR. WEISS: I asked Rescue America National. The one that Mr. Cadle has has national on the back of it. I [p. 324] wanted to make sure, we're talking about this

impact stuff was put on by, something that has the word national associated with it.

THE COURT: All right.

A Have you been an officer or member of any organization charged with the responsibility of training anybody associated with IMPACT training program?

A No.

Q Have you been in Brevard County in the last two and a half years?

A Yes. I was in Brevard County a year and a half ago at a prayer service that was conducted on A One A in front of a hotel.

Q Was that within the driveway of any abortion clinic?

A I believe it was in Cocoa, if I'm not mistaken. It was a hotel. It wasn't – it was probably twenty-five miles from the Aware Woman Clinic, I would estimate. I haven't been to the Aware Woman Clinic in probably two and half years, three years.

Q Now, Plaintiffs' Exhibit Seven, that references a prayer service on October thirty-one, did you disseminate that document attempting in any way to intentionally defy the order of Judge McGregor?

A No, I didn't. I wouldn't do that.

Q Have you at all times respected Judge McGregor's [p. 325] order in every respect?

A Yes.

Q Now, again with respect again to the publication of Exhibit Number Seven, that publication was several months prior to the entry of this judge's order; is that correct?

A Yes, it is.

MR. WEISS: Nothing further, Your Honor.

REDIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q And, Reverend Martin, giving your last answer, you're not recanting your the testimony you gave to earlier that document was published several months prior, was actually distributed after the date of the injunctive order September 30, 1992? You are not recanting that testimony; are you?

A I didn't understand the question.

Q Didn't you tell me in your direct testimony there were copies of that document distributed after September 30, 1992?

A After September thirtieth?

Q Yes.

A If I did, after I looked at it, after I did, I don't know when this thing – I distributed this to people two months in advance. I don't know what they do with it after.

Q You might distribute it two months in advance, but [p. 326] the people have that long a memory that you're going to get that document out two months in

advance that that's going to come out sometime in August?

A Well, hopefully they hang on to it. I don't know what they do with it. I don't remember the testimony.

Q Well, again Reverend Martin, let's be clear. You continued to distribute that material on in to December of 1992?

A Did I personally?

Q Yeah.

A I didn't – not that I know of.

Q Yes, sir. I'm saying you personally.

A I don't believe I did.

Q Uh-huh. Do you recall being in Seminole County on the evening of December fourth of 1992 and distributing that material?

MR. WEISS: That material being exhibit Number Seven?

MR. D'ALEMBERTE: Yes.

A I don't know.

Q Is that possible, reverend?

A Anything is possible.

Q The fact of the matter is, you didn't print up additional material to let people know about these other prayer meetings; did you? You had this material printed up to [p. 327] handle that quarter's prayer meetings and you continued to give notice to people.

A Usually I give it all out to people at one time.

Q But, you – So, it's with the intention that it continues to be distributed while it's pertinent and it's pertient [sic] while the demonstrations are going on.

A I hope people keep it and go to the prayer meetings.

Q All right. And, you also hope that the other material gets distributed if it has not been distributed? Isn't that the purpose of it?

A Hopefully it gets distributed before the prayer services start.

Q And, the last prayer service on that is what?

A December twenty-sixth.

Q All right, sir. Now, just one final series. Did I understand just a moment ago you respected the judge's order?

A I've never broke the judge's order. I respect the judge.

Q Have you ever indicated that you would follow injunctive orders if they are contrary to God's word?

A If they're contrary to God's word, I don't feel that the judge's orders is contrary to God's word.

Q And, statements made just after this injunctive order being entered, do you agree that you did make statements that you would follow any injunction if it was contrary to [p. 328] God's word?

A I said I had no knowledge of what the Orlando Sentinel wrote.

MR. D'ALEMBERTE: All right. Thank you.

RECROSS-EXAMINATION

BY MR. WEISS:

Q Now, Mr. D'Alemberte wants to talk about the last day on this document which is December twenty-sixth. Let's talk about the first day. I want to make sure we've got this. The first day you published this several months – This covers October, November, December. I want to make sure the record is crystal clear. You published this document several months prior to October 31, 1992.

THE COURT: Counsel, he hasn't testified it was several. That's your version.

MR. WEISS: A couple.

THE COURT: A month in advance.

MR. WEISS: A couple of months.

THE COURT: Okay.

MR. WEISS: Several and couple. I apologize, Judge. My enthusiasm in trying to put the distance between him and the time, I apologize.

Q Now, anywhere in the judge's order did you see any instructions whatsoever prohibiting you from sending out your [p. 329] leaflet describing operations of Rescue America? Did you understand the judge to say

you can't publish that leaflet, that you had lost your First Amendment rights to do that?

A No, I don't.

MR. WEISS: Nothing further.

MR. D'ALEMBERTE: May I, Your Honor?

REDIRECT-EXAMINATION

BY MR. D''ALEMBERTE:

Q Reverend Martin, did you understand that people reading this document that's published by you would understand that it was proper to put their bodies in the place of clinics to block to the clinics? Did you understand that was a reasonable reading of this document?

MR. WEISS: Your Honor, objection –

A No.

MR. WEISS: That calls for the wildest form of speculation how someone might interpret the document.

THE COURT: Well, I think you can inquire as to intent.

MR. D'ALEMBERTE: Thank you, You [sic] Honor.

THE COURT: Because he's the author.

Q All right. Now, when you say the term rescue refers to blocking access to the entrance of abortion clinics, did you intend that to be the definition of the word rescue? [p. 330] People understand that?

A I don't believe I wrote that section, no.

Q But, you distributed it. Did you understand that the intention of people –

A I wrote this as a document to explain to people various ways of saving babies lives at abortion clinics.

Q And, one of those ways is rescue; is it not?

A If that's what they want to do.

Q And, rescue means blocking access?

A Oh, I believe rescue, like I said, I believe that rescue means a lot of things. Okay. In this terminology – it's a – I'm not sure if I wrote that or not. I didn't do a final count on it. I mean, it does have my name on it. But, rescue is numerous things.

Q And, it involves, when you use a rescue you certainly can mean blocking access?

A Yes.

Q And, let me go on. The words are "in this manner we are putting our bodies between the abortionist and his intended victim, the preborn child." Do you recall whether you wrote those words?

A There's a lot in here I didn't write.

Q Do you recall if you wrote those words, sir?

A I don't know if I wrote them or not.

Q To whom does the we refer, "we are putting our [p. 331] bodies between the abortionist and the intended victim"?

A Whoever wrote this – and I'm not sure I wrote this, but whoever wrote this and people who feel like they want to do it.

Q All right, sir. And, the next sentence is "While we are in place –" is that an exortation for people to be in place so that there are no babies murdered?

A This is just an explanation of what happens when people blockade a door.

Q And, it's not intended –

A It's not intended – it was never intended to ask anybody to do anything.

Q All right, sir.

A It was just an informational piece that was put out.

Q And, this informational piece, do you understand it's intention was to buy time for sidewalk counselors to talk with the birth mothers? Is that your intention?

A This informational piece's intention is to buy time.

Q And, was that your intention in distributing this piece?

A No. My intention was to inform people of the options that they have.

Q All right, sir. And, is one of those options shutting the clinic for the day?

A Excuse me?

[p. 332] MR. WEISS: Objection, Your Honor, at this time it's really accumulative.

THE COURT: Overruled.

A As I said, this is an informational piece.

Q I understand. Is one of those options shutting the clinic for the day?

A Excuse me?

Q Is one of those options shutting the clinic for the day?

A That's not what it says, no.

Q Okay. When the words are "In most cases the clinic is shut for the day" –

A But, that's not the objective. That's just a statement. That's a statement of fact.

Q And, that's a statement of fact about that option of blocking a clinic?

A If people so desire to do that.

Q And, is one of those consequences of taking that action that many people who have appointments will be discouraged and not return?

A If – Yes.

MR. D'ALEMBERTE: Thank you. That's all, sir.

MR. WEISS: Nothing further.

THE COURT: Thank you, sir. If you would step down and return to your seat.

[p. 333] MR. WEISS: Your Honor, at this time now, we may he permitted to leave to go to his family emergency? He does have a family emergency? If they have no further questions, he'd like to leave. Is that all right?

MR. D'ALEMBERTE: Sure.

THE COURT: Okay. Thank you.

MR. D'ALEMBERTE: That's all we have, Your Honor.

THE COURT: Plaintiffs rest?

MR. D'ALEMBERTE: Yes, sir.

THE COURT: Tell this court what your case consists of, please, so far as testimony.

MR. WEISS: With respect to, I believe there's been a stipulation that Mrs. Madsen has not violated any of the court's injunction whatsoever. If I've got that clear then –

THE COURT: That's my understanding.

MR. WEISS: With respect to the actions brought with respect to Mr. Martin, that's the only thing we're talking about.

I would move that at this time the charges of violation of this court's order as alleged in their motion number one should be dropped and that we should be

permitted to the charge in your permanent injunction, I'm quoting from page two of their motion number one.

"The permanent injunction, the court enjoined the [p. 334] defendants from the following: trespassing on." Not one word. As a matter of fact, they got irritated when I started cross-examining about may have happened. Not one word did he trespass. Not word one that he sat in, blocked or obstructed any ingress to or egress from any facility. There's not one shred of evidence that he did any of that.

There's not any shred of evidence that he physically abused a single person from entering, leaving, working or using any of the service that facility.

And, there's not a shred of evidence that he attempted or directed others to take any of those steps whatsoever.

You have him saying the first prayer – Your order is October thirty-one. The first prayer service is October thirty-one. He said to get folks down, I'm going to use the right term, a couple of months prior he published that.

He said he understood your order. He respected your order and that it was in compliance with God. I don't know what difference that makes. But, he said he felt it complied with God's law. And, he certainly didn't feel under any compulsion to violate it. His testimony that it comports with God's law.

And, without any further showing whatsoever, other [p. 335] than sending out a leaflet, publishing a

leaflet at least a couple of months prior to your order which is not a prohibited event under your order. I think –

THE COURT: It depends on what the leaflet says.

MR. WEISS: Yes, Your Honor. I agree.

THE COURT: Directing others to do things.

MR. WEISS: Your Honor, if you'll read and review that order, if he did that, he said he published it several – a couple of months prior to your order, then he can't be held in contempt for doing it. That's not a prohibited act under the injunction.

It doesn't instruct anyone to – it doesn't attempt or direct anyone to take any action. It doesn't say trespass. It doesn't go sit in. I want you to go block. I want you to obstruct access to. And, it specifically makes no reference whatsoever to blocking access to any facility in Brevard or Seminole County.

And, the evidence is completely clear here, Your Honor, that there was no blocking. But, I expected when we were coming forth with sanctions, that these folks were arm in arm and they had the chains around them like the classic protest that Mrs. – I don't know, the lady did the video, I'm sorry. I've forgotten her name. She said that's a classic protest with these folks thumbing their nose at the court. That would suffice to [p. 336] constitute a violation.

But, we don't evidence of a single arrest for trespass, a single arrest for abuse, and certainly none by my clients.

And, on that grounds alone, Your Honor, I don't think that there has been any showing whatsoever of any violation.

All my client's done whatsoever, he has exercised his rights, which you provided him along with the United States Constitution. He can pray. And, he said he did so. There is nothing wrong with praying.

And, based on the evidence that's before the court, I don't see how there's any factual predicate to find Judy Madsen, Ed Martin in violation of your order. They've got to intentionally violate your order. And, I don't believe there's been any showing, Your Honor.

I'm surprised that they brought this action, sincerely. I mean if they were arm in arm, thumbing their nose at you saying a thousand people they shut down the clinic. That didn't happen.

Your order has been complied – Secondarily, they're saying let's amend it. I think your order has been pretty darn well respected since nobody's been arrested for violating any of it. There hasn't been a single arrest.

[p. 337] So, I based on that –

THE COURT: I have a little trouble equating police action to whether my order has been violated. It doesn't take a police arrest to show that there has been a violation of the order. That's not the sole determinative for that particular issue.

MR. WEISS: Your Honor, I don't think there's been any evidence whatsoever my clients engage in anything other than their fully protected First Amendment rights.

And, I think the efforts of my clients to peaceably assemble and pray are protected by the constitution and your order. And, I think they haven't made a case against them, Judge.

THE COURT: All right. Next motion. Mr. Cadle, do you wish to make a similar motion?

MR. CADLE: Your Honor, I have two very brief witnesses prepared for my defense. I believe they counteract some of the testimony from yesterday. Based on today's testimony, I could in a horde of other witnesses that could counteract much of what has been said today before the court.

That's not my desire. But, I do have two witnesses present. Four or five questions to each witness is what I have to present.

THE COURT: Counsel, do you wish to respond to his [p. 338] motion?

MR. D'ALEMBERTE: Yes, Your Honor, just very briefly, if I may. As I understand, counsel makes three points.

One, he refers to the failure to have arrests. Actually, if you listen to counsel closely, I actually hear him arguing both sides of that. Perhaps I'm guilty of that as well.

The fact there are no arrests, I respectfully submit, does not control whether or not the court's injunctive order should be entered. Indeed, in papers previously filed with the court, counsel says where the criminal law is there and capable of being enforced, you don't issue injunctive orders. I think we're well past that step.

As I understand it, speaking directly to Reverend Martin, Your Honor, counsel is simply incorrect when he says there's not a shred of evidence. It maybe all of this rests within the court's determination as to whether or not it's convincing evidence or not. But, there certainly is a shred of evidence on both the points.

The first evidence, of course, comes from the doctor whos [sic] testified that, indeed it was Reverend Martin, that Reverend Martin was one of the people blocking the car.

This is diametrically opposed to testimony. And, [p. 339] what we have in that case is just have to select between the testimony and that, Your Honor, would have to weight the credibility of both the doctor and the Reverend Martin.

As to the brochure, Your Honor, it's really interesting to me the words used in the brochure originally published, I think the record indicates before the September thirtieth order, but an order actually siged [sic] by Your Honor, a temporary injunction was in place.

The word was in both these orders blocking. The first phrase was trespass, sitting in, blocking or impeding or obstructing access, ingress or egress of facilities.

And, then in paragraph three, attempting or directing others to take any of the above actions described. And, so again, there is, I confess some lack of clarity in the record in this respect.

When Reverend Martin originally testified he told us that the brochure was published and he actually distributed copies of it after the order was entered. On

cross-examination he seemed to adopt a suggestion by counsel that perhaps this had been published two months before and he couldn't – he got a little fuzzy about when it was distributed.

When I asked him specific questions about specific [p. 340] locations, he did concede, I believe, on my redirect-examination it was possible that, indeed, he distributed the literature on December fourth, 1992, but he wasn't positive.

And, so although there's not clarity on all that, we respectfully submit that the witness' credibility is something Your Honor has to take into account as well.

As to the great respect that the witness has to the orders of the court, again that's a matter on which there is some dispute. It was, as I understood the testimony from the witness, he did not recall making particular statements to an Orlando Sentinel journalist relating to the fact that he would follow God's law rather than man's law and you could have a hundreds injunctions, were the words quoted, and it wouldn't make any difference, he would go to the doorsteps to save children.

Now, he doesn't deny saying those words. He just does not, as I recall the testimony, does not recall saying those words to the jonunalist [sic].

So, all these questions, counsel says there's not a shred of evidence, I do concede there is some confusion what the real truth is here. But, there certainly is plenty of shreds of evidence, enough evidence to allow Your Honor to direct Reverend Martin to comply with the court's order.

[p. 341] MR. WEISS: Your Honor, because of the time constraints, I apologize. I've never furnished a trial court a copy of an appellate brief. And, I have briefed this thoroughly in a Fifth District Court of Appeals.

Because we ran into our night last night and Mr. D'Alemberte met trying to go some of these exhibits. I didn't have an opportunity to change the style of this around so it's got the circuit court and addressing it to you.

But, it does address the fundamental First Amendment Constitutionals rights that my clients have. If you would permit me, counsel, I believe has a copy of this appellate brief. Because it thoroughly briefs the law in this area and exactly what my clients rights are under the –

THE COURT: Right now it's a factual determination rather than a determination of law whether or not the words of the injunction have been violated by the acts as revealed by the evidence before the court not what their rights are.

THE COURT: I'm sure that will be helpful back at the time of the imposition of the injunction. This may help counsel, if there is no objection to giving your document that is almost word for word with a document that is already in the court file, a premliminary [sic] brief, [p. 342] I believe, that Mr. Weiss drafted for the trial court that is already in the court file.

MR. WEISS: I did it before the Fifth, I apologize.

MR. D'ALEMBERTE: Are there significant differences?

THE COURT: Well, I don't know. Does it deal with the concept of what is blocking?

MR. WEISS: Your Honor, it deals with the concept associated with the First Amendment protected activities.

MR. D'ALEMBERTE: Your Honor, I think Mr. Weiss would agree there is nothing relating to the topic of blocking or the factual determination what is blocking or urging people to block. I don't think there is anything in that brief relating to that.

THE COURT: Well, counsel, it's twenty-one minutes to six. Mr. Cadle said he has a couple of witnesses. Because of other commitments tomorrow that I continued on to tomorrow morning, I've asked my secretary to search, you know, the next time available. And, the next time is a week from Friday. It's the last day of a trial week with a case scheduled for that time that probably will not go.

My thought is that perhaps since there was a reference to some activity scheduled for Good Friday and perhaps Easter, and it may serve the situation well if I consider motion two a week from Friday.

[p. 343] MR. D'ALEMBERTE: Thank you, Your Honor.

THE COURT: And, with enough time to prepare for the second motion. At that time I'll hear Mr. Cadle's witnesses and make a determination so far as motion one is concerned.

MR. D'ALEMBERTE: Thank you, Your Honor.

MR. WEISS: Yes, Your Honor, and I apologize. I've never done that before.

THE COURT: The court will be in recess.

(Whereupon, the foregoing proceedings were recessed at 5:45 o'clock p. m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA :
: ss.
COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the foregoing proceedings were reduced to shorthand in the presence of the within-named parties and later transcribed; that the foregoing is a true and correct transcription of the excerpt of the proceedings as aforesaid.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on April 1, 1993, in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No: CC 053127

[SEAL]

[p. 1] IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC., Petitioners,	]	CASE NO. 91-2811-CA
vs.	]	
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS, Respondents.	]	

BEFORE THE HONORABLE

ROBERT B. MCGREGOR

JUDGE OF THE COURT

A hearing in the above style cause was held at 1:30 o'clock p. m., on Friday, the 2nd day of April, 1993, in the Courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

[p. 2] APPEARANCES:

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HEARING HELD APRIL 2, 1993

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[p. 3] WHEREUPON:

The following proceedings were had:

RAYMOND UNTERBERGER

a witness herein, having first been sworn, was examined and testified as follows:

CROSS-EXAMINATION

BY MR. D'ALEMBERTE

Q Mr. Unterberger –

A Unterberger.

Q My name is D'Alemberte. Mr. Unterberger, I represent the Plaintiffs in this cause.

Mr. Unterberger, you've indicated that you were arrested one time just prior to the time that one of these pictures was taken. Can you tell us now how many times you've been arrested in –

MR. WEISS: Your Honor –

Q – in the course of making demonstrations at – Let me finish my question. – in the course of making demonstrations at abortion clinics?

MR. CADLE: Your Honor, I object. This is not related to the time frame within this Court's order. It's not relevant. It's not material.

THE COURT: Sustain the objection. Improper [p. 4] impeachment.

MR. D'ALEMBERTE: Your Honor, I'll try to get at it another way.

Q Have you participated in activities – First of all, are you a member of the IMPACT Team?

A No.

Q Do you belong to any organizations or do you support organizations that are opposed to abortions?

A I am against abortions. I do not support organizations as such.

Q I'm sorry?

A I do not belong to organizations.

Q All right. Have you cooperated with the IMPACT Team?

A Yes. I have cooperated with them.

Q Have you attended meetings of the IMPACT Team?

A No.

Q Educational programs of the IMPACT Team; have you attended any of those?

A No.

Q Who is the leader of the IMPACT Team in the Melbourne area?

A The IMPACT Team?

Q Uh-huh.

MR. CADLE: Your Honor, again I object. He just [p. 5] said he's never been to a meeting. He's never been in the classroom.

THE COURT: He might have knowledge from other sources.

A The only source I have is on the street. And, I've never personally seen anybody be asked to do anything on the street as far as the IMPACT Teams are concerned.

Q Well, when you've gone to the Woman Aware Clinic, you've gone there in coordination with other people; have you not?

A Generally I go by myself or with my family. I drive my car up there. At rallies they announce the time and I go.

Q Is it your testimony then, sir, that you've not had any coordination or communication with Mr. Cadle concerning activities at the Aware Woman Clinic?

A Concerning activities at the Aware Woman's Clinic?

Q Sure.

A At any time of the injunction, no.

Q You've had no discussion with him about activities there?

A Sure.

Q During the time of the injunction.

A Bruce is a friend. I have had discussions with him about all kinds of things since. I'm sure we've talked about Aware Woman. I'm sure of that.

[p. 6] Q You've indicated in your earlier testimony that you have, indeed, had some activities with the IMPACT Team. What are those activities?

A I've been at Aware Woman on Saturday morning.

Q When the IMPACT Team is there?

A Yes.

Q And, what is your understanding about who has organized and recruited the IMPACT Team?

A I don't know. I don't know who recruited the IMPACT Team. I have no idea. I have seen fliers on it, the purple fliers.

Q Have you seen the flier that I now show you which is marked as Plaintiffs' Exhibit Triple E, echo, Your Honor? The date on that, I think, is March 27, 1993.

A I have not seen it.

Q Any of that literature?

A It came to my house. I haven't seen it though.

Q It has come to your house?

A Yes, it has.

Q And, it has come to your house since – since March 27, 1993?

A Yes, sir.

Q Is that correct?

A Yes.

Q And, how is it you happen to know it's come to your [p. 7] house and you haven't seen it?

A Well, I recognize the flier here, you know. I just glanced over it.

Q All right. And, then, is it fair to say you are on the mailing list for the IMPACT Team's mailing?

A I got it in the mail.

Q All right, sir. Who, then based on – Have you received earlier mailings from this IMPACT Team?

A From IMPACT Teams? I get Operation Rescue National's.

Q All right, sir. And, you are indicating Operation Rescue National is on that letterhead along with IMPACT; is that correct?

A That's correct.

Q Okay. Now, have you seen that literature distributed anywhere?

A No, I have not.

Q Now, I'd like for you to answer the next series of questions dealing with the period since the entry of the permanent injunction order in September 30, 1992.

Is it – Have you participated in any of the following activities: Sidewalk counseling?

A Yes.

Q And, that's at Aware Woman Clinic in Melbourne, Florida?

[p. 8] A Yes, it is.

Q Shouting at the surgery?

A Shouting at the surgery?

Q The surgical facilities at Aware Woman Clinic?

A No. I have not.

Q All right, sir. Have you been involved in any kind of shouting at that clinic?

A I have called out to the abortionist.

Q Called out what, sir?

A I have – I have – I guess you could call it shouting, but it's in order to be heard in a distance without trespassing. I have called out to the abortionist.

Q And, what have you called out, sir?

A I have called out that God will hold him accountable for the blood that is shed in that place that day. That's generally this gist of that.

Q All right, sir. And, you've continued to do that each Saturday?

A I don't do that every Saturday, no.

Q All right, sir. Have you done it any Saturdays in March, sir?

A No, I have not.

Q Okay. Now, have you participated in any residential picketing?

A Yes, I have.

[p. 9] Q And, whose homes have you been involved in residential picketing?

MR. CADLE: Your Honor, I object. This is outside the scope of direct.

MR. D'ALEMBERTE: Your Honor, my understanding of the inquiry that was made by Mr. Cadle, was

he was making inquiry about both as to Motions One and Two. And, I though he expressly declared that to the Court.

And, it's my understanding that these activities where were – I can set a further predicate.

THE COURT: That's fine. Overrule the objection.

Q Now, have you participated in any residential picketing in company with the IMPACT Team?

A Yes, I have.

Q All right, sir. And, again, the IMPACT Team is the Operation Rescue National operation?

A It's on the same letterhead as far as that goes.

Q And, you know that Bruce Cadle is the Southeastern Regional director of Operation Rescue National; do you not?

A Yeah.

Q And, your answer is yes?

A Yes.

Q Now, whose homes have you picketed?

A With the IMPACT Team?

Q Yes.

[p. 10] A I believe it was – well, that wasn't even – That was not in Brevard or Seminole County.

Q Were there people who were working at the Woman's Aware Clinic in Brevard County that you picketed?

Have you picketed the homes of people who were working at Aware Woman's Clinic?

A Yes, I have.

Q All right, sir. What people have you picketed?

A Not with the IMPACT Team, but we've picketed Pam Doyle.

THE COURT: Say that name again.

THE WITNESS: Doyle.

Q That's Pam Doyle who is a nurse at Aware Woman's Clinic?

A I don't know. I believe so. I'm not sure.

Q All right, sir. So, how did you find out where Pam Doyle lived?

A I looked her name up in the phone book and went over and drove through the complex.

Q All right, sir. And, what other people have you engaged in residential picketing?

MR. WEISS: I'm going to interpose an objection unless it's restricted to post permanent injunction.

MR. D'ALEMBERTE: All my questions were directed to that counsel. I made that as a predicate to this series [p. 11] of questions.

MR. WEISS: This is not –

MR. D'ALEMBERTE: The witness understands.

A This is without – That was without the IMPACT Team.

Q That one was without the IMPACT Team. All right, sir. Other residential picketing that you've participated in.

A I believe it was Windle's home. It was the same day that we did Pam Doyle's home.

Q All right, sir. That wasn't the only one that day; was it? Wasn't there a third?

A There was a third one.

Q All right, sir. Who was that?

A I don't remember right off. Give me a few minutes and I'll give it to you.

Q All right, sir. Where did you first learn about residential picketing? Who did you learn it from?

A I heard about it from a group called Operation Life in Dobbs Ferry, New York.

Q All right, sir. Now, you were giving us a list of people who you participated in residential picketing targeted toward them. Who else?

A Just that third one that day. I don't recall any others.

Q All right, sir. Now, does residential picketing include not only holding up signs and marching in the [p. 12] neighborhood, but going up to the door of the residence?

A Not while I was there. Oh – Yeah. It would include knocking on the door.

Q All right, sir.

A I've never done that and I've never seen it done.

Q Okay. Does – Have you seen residential picketing done which means also carrying fliers around to neighbors?

A Yes, sir.

Q And, have you done that?

A I have never handed out the fliers, but I've seen it done.

Q And, you've been there while it's been done?

A Yes, sir. I have seen that.

Q And, it involves signs carrying the target's name and carrying around the neighborhood signs bearing their names?

A Yes, it – Yes.

Q And, identifying that person as a murderer?

A As a murderer?

Q A baby killer?

A Sure.

Q Okay. Now, have you participated in a hotel – any demonstration at a hotel where a doctor was staying?

A Since September thirtieth, no, I have not.

Q Okay. But, now – Okay. Now, do you know, if I [p. 13] refer to phone line tie up or phone line bingo, do you understand that terminology?

A No.

Q Have you ever heard it?

A Have not.

Q Have you ever heard of any use of techiqes [sic] which would be designed to tie up the telephones of the clinic? Have you ever heard of that being done?

A I've seen a flier called the Eight Hundred Club.

Q All right, sir. Who published that?

A I have no idea.

Q Okay. Have you participated in any of those activities?

A No.

Q Have you ever known of any participation by any IMPACT Team members?

A No.

Q Or Rescue America members?

A No.

Q Okay. Now, you – you've been at the Aware Woman's Clinic again since September 30, 1992 and you've seen some occasions when there have been ladders put up right by the fence; have you not?

A Yes.

Q Is it fair to say, Mr. Unterberger, that, indeed, [p. 14] those ladders were – appeared at the clinic through some process of which you have direct knowledge?

A I brought one ladder.

Q All right, sir. You brought your truck there and brought a ladder; didn't you?

A No. I brought my car.

Q All right, sir. What was the purpose of the ladder?

A The ladder was to see over the back fence.

Q And, was it just to see over the back fence?

A No sir. Also to discuss with the people there what was going on.

Q Give us a little bit of idea about how these discussions were carried out.

A I never – I have only confronted the doctor, the abortionist. I have never discussed with other – with the employees over the back fence.

Q All right. But, you have been there while it's been done; haven't you?

A Yes.

Q And, you brought a ladder for that?

A Yes.

Q All right, sir. And, would you tell us how these discussions take place? What was said in these discussions.

A Somebody would say that – Let's see, "Are you aware what's going on in there. They're ripping babies apart. [p. 15] You're a part of that. God loves you."

Q Have you heard names called?

A Names called?

Q People's names?

A I'm talking about the back fence.

Q Yes, sir.

A I'm not talking –

Q No.

A I've never heard a name called from the back fence.

Q Have you seen someone at the facility holding up a name on a sign?

A I've seen a sign. I've seen a board. I've never seen a name on it.

Q All right, sir. These discussions that are taking place, are these two way discussions?

A From the back fence, usually.

Q Uh-huh. And, what tone of voice is used in those discussions?

A A preaching type of tone of voice.

Q Would it be fair to characterize it as sometimes a shouting voice?

A If it's shouting, it's only to be heard. A lot of times at the back fence, no, it's not shouting. Sometimes, yes, but not always.

Q Okay, sir. Now, I want to return, if I may, to your [p. 16] background and credentials, if I may. Did I understand that you're educated as a civil engineer and a land surveyor?

A Right.

Q Are you a licensed civil engineer?

A Yes, sir.

Q Are you a member of any other societies? Florida –

A Florida Engineering Society. Past president of the Indian River chapter.

Q Yes, sir. And, what is your work? What is your work, sir, for Brevard County?

A I handle traffic problems. I design traffic signals, roadway – small roadway geometrics, sign installations, striping, that kind of thing.

Q So essentially, you handle traffic engineering for Brevard County; is that correct?

A I don't handle it all. I'm not the division director.

Q No.

A But, I answer directly to him.

Q But, is that what you do?

A I do that. Yes, sir.

Q And, so you work for the traffic division for Brevard County?

A Traffic engineering division.

Q Okay. I'd like to, if I may, go back to a couple of [p. 17] the pictures.

Your Honor, may I?

THE COURT: Sure.

Q I want to make sure I understand, Mr. Unterberger. I now show you Plaintiffs' Exhibit Ten which shows people walking along side U.S. One side of Aware Woman Clinic. See that, and if you would hold it up after you see it just to remind the judge which picture that is.

Is it your testimony, first of all, do you know the people who are pictured there?

A I recognize Dick Vanderbilt (phonetic). And, the man on the right is Ed Michless (phonetic) and that's his daughter in the middle. I believe that's his daughter.

Q And, those are the people you've cooperated with in handling demonstrations at Aware Woman's Clinic; have you not?

A Cooperated with? I've been there with them and talked to them.

Q Yes, sir. Now, is it your testimony that what they're doing there is dangerous?

A No. I don't believe it's that.

Q All right, sir. And, let me ask you the same question as to Plaintiffs' Exhibit Eleven.

A There is potential there.

Q All right, sir. Now, first of all if you can identify for us the people who are in Plaintiffs' Exhibit [p. 18] Eleven?

A I believe I see Regis Albert (phonetic). I can't see – I can't make out the rest.

Q Do you recognize at least someone there who you have cooperated with in conducting demonstrations at Aware Woman's Clinic?

A I have been there at the site with them.

Q All right. And, is it your testimony that is dangerous?

A No.

Q Technically?

A No. There's a potential there if people – People tend to crowd the highway –

Q All right, sir.

A – then it gets dangerous.

Q All right, sir. Now, as to Plaintiffs' Exhibit Nine which shows people kneeling, praying, is it your testimony that that is dangerous?

A That is not dangerous in that picture.

Q Indeed, as to that picture, Plaintiffs' Exhibit Nine, is it your testimony that you were actually standing there to demonstrate?

A I had stood there and I have kneeled there praying.

Q And, you certainly, as a traffic engineer, wouldn't be doing something if it's dangerous to traffic; would you?

[p. 19] A No, sir.

Q And, that is across the street; is it not from Aware Woman's Clinic?

A It's across the street, but it's only about twenty feet wide.

Q Un-huh.

A There's a lot more street there.

Q Yes, sir. All right, now. I'd like to go to this time of your arrest now. For purposes of this question, we're now talking only after September 30, 1992. Have you been arrested other than this one time that you identified?

A No.

Q All right, sir. Now, as to that arrest, were you – that day of your arrest, didn't you actually cross a police baricade [sic]?

A There was an orange baricade [sic] there. It is – It wasn't clear. It only had one leg on it. It was just kind of sitting there. I walked around it.

Q And, you walked around it?

A I didn't – well, walked around it, sure.

Q And, were you asked by a policeman –

A Sure was. And, let me also explain there were no baricades [sic] in the other direction. If I had walked

around the block I would not have crossed a baricade [sic] to get to that location.

[p. 20] Q I understand that. But, at least there was a baricade [sic] there and you understood before walking there that a policeman did not want you to be in that area.

A No, I did not.

Q But, you did understand after you walked there –

A Yes, sir.

Q – that he didn't want you there?

A Yes, sir.

Q But, you didn't decide to follow the police officer's instructions?

A America is not a police state.

Q Yes, sir. I think that's probably right. But, I wonder whether you feel any obligation to follow the police officer's instructions?

A In general, yes.

Q Did you think that the police officer was giving these instructions because he was attempting to keep some order at the site?

A No.

Q And, what do you think the police officer's purpose was?

A I think he was being arbitrary.

Q All right, sir. Now, are you familiar with the Melbourne Police Department?

A Somewhat, yeah.

[p. 21] Q Do you know Captain Allgeyer?

A I would know him if he walked in here.

Q You would. Do you consider Captain Allgeyer an arbitrary person?

A Concerning us in a lot of respects, yes.

Q All right, sir.

A In certain areas.

Q Now, do you understand that Captain Allgeyer had actually proposed having a different format?

A No, no I didn't.

Q You did not know that.

A No, sir.

Q Now, do I understand that the place that you wanted to be on the day that that picture, Plaintiffs' Exhibit Nine, the place you wanted to be was the place where kneeling and praying are actually located?

A Yes.

Q All right, sir. And, if I mark on – if I go to Plaintiffs' Exhibit A, it would be somewhere right about in the area where I'm pointing to here?

A Approximately. It would be a little bit more to the right, but, yes.

Q But, it would be across the street –

A Yes.

Q – from the – Thank you, sir. Now, indeed, as I [p. 22] understand your complaint with the police is that you – is that you thought the policeman was being arbitrary because he wouldn't let you be there?

A Yes.

Q All right, sir. Now, is it – Now, is it – Would it then be useful to your rights to know exactly where you can be?

A Useful to my rights?

Q Yes. You wanted to be in this location you just identified right here. If the Judge were to fashion an order which was rather precise allowing you to be there, that would guaranty [sic] your right to do the very thing that you were trying to do when you were arrested; wouldn't it?

A From the aspect it would allow me to be there?

Q Yes, sir.

A That would be fine.

Q All right, sir. As to this testimony, sir, about which side of the street is the safest, do I understand the testimony that you've given concerning the safety of the south side of this street – I hope I have my directions right today, Your Honor – the south side of Dixie Way versus the north side of Dixie Way to be predicated on the question of whether or not cars can stop?

A No. It's predicated upon the space for the number of people to be where they are.

[p. 23] Q All right, sir. Now, let's examine that for a moment.

A There was also another aspect of the cars stopping to get sidewalk counseling. They would stop in the street.

Q All right, sir. As I understood your testimony earlier, you were concerned about whether the people who were going into the clinic would have access to the literature. Is that right? Is that your concern?

A I believe I said that they would not have as good access as they turned in there because you're on this side and you can only approach the passenger side of the car and they have no control over the car.

Q Who has no control?

A No. You can approach the driver's side. Okay. You can approach the driver's side.

Q I'm sorry now. You are speaking as –

A I'm speaking as handing out literature.

Q You're not speaking as a traffic engineer?

A Not at that point, no.

Q Okay. I was confused about that. But, now so far, not speaking as a traffic engineer, but speaking as someone who's concerned about getting the literature to the people, what you're saying is it's harder to approach the cars?

A Yes.

Q All right, sir. Now, on the otherhand, if the [p. 24] people in the car want the literature, there are many ways they can get the literature; can they not?

A The only way is to roll down their window and take it.

Q They could park in the facility and walk back across the street and take it; couldn't they?

A Not with the pro-abortion people lined up across the driveway.

Q You've never seen any pro-abortion people stop someone from coming out to take literature.

A Yes, I have.

Q Yes, sir. And on what occasion was that, sir?

A It was prior to September thirtieth, but I've seen it.

Q All right, sir. Now, you're saying someone's been restrained from coming across the street?

A From coming out of the parking lot, yes, sir.

Q You do agree that there's an area that's been used for parking in this area?

A Yes, sir.

Q And, it's this vacant lot area?

A I park there.

Q All right, sir. And, the owner of that lot has given permission to park there?

A I have no direct knowledge of that. I've heard that.

[p. 25] Q And, all right, sir. And, if someone who wanted to pull into that area and take literature, they could certainly do it; could they not?

A Yes, sir.

Q All right, sir. And, this isn't the only place literature is passed out; is it? Literature is available in other places?

A I'm sure it's available just about everywhere.

Q And, you've actually got counseling clinics in other places in Melbourne; haven't you?

A Uh-huh.

Q Don't you know about those?

A Yes.

Q Where literature is passed out?

A Absolutely.

Q And, people who want to get the literature are free to go to those places; are they not?

A Sure.

Q All right, sir. So, again, you've told us that you're not discussing – that you're talking about literature, that you're not discussing this as a traffic engineer.

A Right.

Q But, you did indicate, now, that there was some, as a traffic engineer, there was some more favorable

aspects to the north side of the street than the south side of the [p. 26] street.

A Yes, I did.

Q Now, that was because there was a sidewalk there?

A Yes, primarily.

Q Yes, sir. Now, the sidewalk is not a very long sidewalk; is it?

A Well, if you add the driveways in, it goes pretty much along the whole front of this property.

Q Yes, sir. It's goes from the one parking lot to the other; does it not?

A Right.

Q That's all it is.

A That's – Yeah, sure.

Q How wide is that sidewalk?

A The drawing here says four feet. It maybe five. I'm not sure.

Q Now, what's been done at, as you look at the picketing and the sidewalk counselors, there is an attempt to put a steady stream of people along the driveway; is there not?

A Not an attempt. That's not an attempt. That's pretty much what we walk, yes.

Q That's the way it's done?

A Yes.

Q And, some sidewalk counselors are out there to approach the cars as they come up?

[p. 27] A Not – you know, until recently our approach has been to have picketors stay more toward the second parking lot and only have sidewalk counselors there.

But, the – with the amount of activity within the parking lot and the shouting from the pro-abortion people, and the fact that they have lined people across the driveway. And, when they did line people across the driveway, we didn't see any particular problem with walking across it. It was already blocked.

Q All right, sir. Of course, the pro-abortion people step aside as soon as a car comes; don't they?

A Yeah. And, so did we.

Q Okay. We have seen some of that. Now, as these people walk along the sidewalk, how many people can be accommodated on that sidewalk in your estimate as an engineer?

A As an engineer?

Q Yes, sir. You wouldn't want to put two hundred to four hundred people on that sidewalk; would you?

A I certainly wouldn't put four hundred on that sidewalk.

Q No, sir.

A No, sir. I wouldn't.

Q And, indeed, if you were to do that, wouldn't you agree as a traffic engineer that the inevitable effect would be that the people would spill over from the sidewalk into the [p. 28] street?

A I've seen that happen.

Q And, you've actually seen it happen. Yes, sir. And, now do you agree as a traffic engineer, as I understood your point, was that the sidewalk on the north side provided some definition. That is we had a piece of concrete laid down.

A Sure.

Q But, there is still some right-of-way other than the sidewalk, isn't there, on the north side?

A Yes.

Q And, again, you frequently see people walking along this four or five foot wide sidewalk, walk on the grassy area?

A I've seen them walk there.

Q Beside the sidewalk. People don't pay much attention to the sidewalk; isn't that really right?

A That's not true. They generally walk on the sidewalk.

Q All right, sir.

A There are exceptions. You might stop or people might walk around somebody.

Q Uh-huh.

A They may stand –

Q Yes, sir.

A – off the sidewalk so others can walk by.

[p. 29] Q What you like about the north side, distinct from the south side, is that there is a definition there. There's a line drawn by the sidewalk itself.

A It's clear where to walk. It's very clear where to walk.

Q So, that your preference for the north side against the south side would be remedied by having a clear place to walk?

A It would be helpful.

MR. D'ALEMBERTE: All right. May I check just a moment, Your Honor?

Your Honor, I've concluded except to offer Exhibit Triple E, which the witness says was mailed to him, recognizes as having been mailed to his house, I guess after March 27, 1993, from Operation Rescue National and IMPACT.

MR. WEISS: Your Honor, I object. Plaintiffs have rested their case in chief. This is part of the Defendants' case. I don't know why it would be offered in the Defendants' case. It would be out of order.

MR. D'ALEMBERTE: At this point it would make no difference in terms of procedure, Your Honor.

THE COURT: This is not normally when you would do that.

MR. D'ALEMBERTE: I've had it authenticated. And, [p. 30] what I'll do at this point, Your Honor, is simply when the other side rests, we'll offer it as an exhibit.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. WEISS:

Q If the pro-abortion folks stayed on the clinic property, would there always be room for the pro-lifers to peaceably walk on the sidewalk?

A Ninety-nine percent of the cases I would believe so. There might be, you know, might be a lot of people out there some time, no there wouldn't be. If there were a thousand people, no you couldn't put them on the sidewalk.

Q But, on every occasion that you've been out there, the pro-aborts have come down to the sidewalk.

MR. D'ALEMBERTE: Excuse me, Your Honor. I think we're back into pretty much leading questions again.

THE COURT: Mr. Bailiff.

MR. WEISS: I'll rephrase the question.

Q Do the pro-abortion forces restrict themselves to the clinic property?

A No.

Q Where do they go?

A I've seen occasions where they've come right down on the sidewalk and marched around shouting loudly as people were [p. 31] quietly praying on the sidewalk.

Q All right. Did they come within an arm's length?

A Absolutely. Within inches.

Q Have you ever heard noise emanating from the clinic? Loud noise?

A From inside the clinic?

Q Bull horns on the outside?

A On the outside, I've heard bull horns from the outside.

Q Okay. And, who's operating those bull horns?

A People who were in the leadership within the clinic escorts and so forth.

Q Do you know of every potential patient who maybe seeking abortion services in Seminole or Brevard County? Do you know who they are?

A No.

Q Do you know of any potential employees of abortion clinics in Orange – I mean Brevard and Seminole County? Do you know who they are?

A No.

Q Do you know who all the staff is of all abortion clinics in Seminole and Brevard County?

A I don't believe I even know all the abortion clinics in Brevard and Seminole County? I may, but I don't know.

MR. WEISS: Nothing further, Your Honor.

[p. 32] THE COURT: Mr. Cadle, let me ask a couple of questions.

When there's activity on this street or in that area, does traffic have a regular flow to it or is that flow interrupted?

THE WITNESS: I've seen it interrupted.

THE COURT: What causes that interruption?

THE WITNESS: I have seen it done a number of ways. I've seen it happen when the police department has interrupted it by placing baricades [sic] way out near the street.

THE COURT: On the paved surface?

THE WITNESS: I believe it was – it was somewhere between the sidewalk and the edge of the pavement on the street side of the sidewalk. I don't recall exactly where they had them that one Saturday.

I've seen the commotion in the driveway slow people down. And, that commotion generally is caused by the line that the pro-abortion people put across that driveway.

THE COURT: A painted line or a line of bodies?

THE WITNESS: A line of bodies. A painted line certainly wouldn't cause that.

THE COURT: I just wanted to know what kind of line.

THE WITNESS: A line of people.

THE COURT: Are the people in vehicles on the [p. 33] roadway, you know, entitled to expect a regular flow of traffic?

THE WITNESS: Sure.

THE COURT: All right. Thank you. You may inquire, Mr. Cadle.

REDIRECT-EXAMINATION

BY MR. CADLE:

Q Mr. Unterberger, I believe you made a statement earlier regarding a difference in slope, perhaps from the south side to the north side or slope –

A There's some dirt piled up along – it's roughly on the property line, but it does, I believe, extend somewhere in the right-of-way line is my recollection across the vacant lot. And, the yard of the house directly across from the driveway, as you can see here, slopes up pretty fast. It's not too bad in the right-of-way. But, you know, it tends to keep people toward the street.

Q Because it slopes up away from the street?

A Right.

Q Is that slope on the north side of Dixie Way?

A Right.

Q Is that slope different from the slope on the north side of Dixie Way?

A Yes, it is.

[p. 34] Q And, how is that different?

A Well, on the north side, the sidewalk is pretty flat. I know there is some slope to it, but it is generally flat. And, the slope into the grass is much more gentle than it is on the south side.

THE COURT: Now, is this dirt showing in that photograph?

THE WITNESS: No, I don't believe so.

THE COURT: Where are they from –

THE WITNESS: They're down here.

THE COURT: To the east?

THE WITNESS: Yes, sir.

Q Would that be over on the vacant lot?

A Yes.

MR. CADLE: Your Honor.

Q In the photographs that you looked at there were people lined up along the right-of-way area on U. S. One. We also had previous testimony about numbers of people on the sidewalk area along the north side of Dixie Way. Do people move from being on the north side of Dixie Way around the corner on to U. S. One?

A Sometimes.

Q Are there – Have there been picket lines that go from U. S. One to the north side of Dixie Way moving –

A Yes.

[p. 35] Q – lines of people?

A Yes, there have.

Q We're looking at actual picket lines going around the corner back and forth in this area, Your Honor. So, that's a frequent or has been a frequent activity of people going from north Dixie Way to U. S. One?

A Yes.

Q Do you have occasion to see people sometimes stay on U. S. One side for a while and then move and go to the north of Dixie Way?

A Yes. Sure.

Q As a public traffic engineer, if people were on the south side of Dixie Way and chose to walk over to this area, would that create a hazard?

A There better be somebody there. They better be careful crossing the street there at the corner as part of –

Q Is there any kind of a crosswalk area markings?

A There is no crosswalk markings. It's a potentially hazardous area.

Q Is there on U. S. One any kind of a caution sign in that area?

A No.

Q So, if people chose to go from the south side of Dixie Way to the west side of Highway U. S. One, they'd

have to cross diagonally or come down and go straight across Dixie [p. 36] Way at this intersection?

A Yeah. They'd probably tend to stick really close to the street so they wouldn't get arrested cutting across Dixie Way.

Q Okay.

A They'll stay close to U. S. One would be my opinion.

Q And, in your opinion – Mr. Unterberger, in your opinion, would pedistrian [sic] movement from the south side of Dixie Way to the east side of U. S. One be a public safety hazard?

A I believe the distance across Dixie Way within the U. S. One right-of-way is quite wide. It could be a problem.

Q Have you ever had occasion to see people along this area of U. S. One picketing, standing still, praying, have you ever had occasion to see traffic swerve off the road and try to hit any of those people?

A Yes. Yes, I have. I've seen on at least two occasions where cars have at least swerved, which is very dangerous even if they're not trying to hit somebody.

Q Have you had occasion to see any displays of anger by drivers driving on U. S. One towards the people standing along –

A So many times I can't count them.

Q So many times you can't count?

A So many times I can't count them.

[p. 37] Q Is it –

A All kinds of verbal abuse, people throwing pennies, flipping birds, shouting obscenities.

Q Is it your opinion that to increase the number of people along U. S. One would be an increased risk because of those signs of anger and cars that have swerved?

A Certainly a good possibility. I think the more people you have on U. S. One, you've got more pedestrian vehicle interface and that's potentially hazardous.

Q I believe you told the other counsel, he was asking about having taken a ladder to the vacant area behind the fence at the top of our map here. And, you said there was some two way discussions.

A Yes, there was.

Q From that area. Is it a little quieter back there –

A Sure.

Q – from out on the street?

A Yes.

Q So, there's more opportunity for dialogue?

A Sure. There's fewer people.

Q From what you've observed of any dialogue, two way discussion over this fence at the back of the property, would it be possible to carry on the dialogue if the people on the ladder were say fifty feet north of there?

[p. 38] A No. It wouldn't be possible.

Q Could you describe what that property is like to the north of that fence?

A It's wooded with dense underbrush, a lot of these vines that grow up trees. And, it's very difficult to move through.

Q If, in fact, someone was fifty feet north of this fence, would they be able to see, in your opinion, the fence?

A They couldn't see much of it. They could probably see pieces of it.

THE COURT: Would your answer be the same if it was thirty-seven feet?

THE WITNESS: I think it would be a problem. I really do.

Q How far from the time you would leave this fence heading due north, how far until you are into a wooded area?

A Probably about twenty feet.

Q About twenty feet. You described earlier the situation of your arrest, that there were baricades [sic] and that you went west on Dixie Way.

A Yes.

Q Is that away from Aware Woman Clinic? Is that heading away from their property?

A West is heading away.

Q So, you were actually getting farther away?

[p. 39] A Right.

Q Was there a reason you didn't want to be behind the baricades [sic] that were set up there?

A There were a lot of people there. And, not a particular reason.

Q Was it a crowded situation?

A It was crowded. It was crowded. It was quieter down the street a little ways.

Q And, you went to a quieter place to be able to pray?

A I went to a quieter place. I was praying. I thought it was a better place to pray.

Q And, there was some question about did you want to be there. When you arrived on that particular day, was this the place you wanted to be?

A Not particularly.

Q Would you have preferred to have been on the other side?

A Absolutely.

Q Is that normally where you -

A Yes.

Q - participate in activities?

A Yes. Yes, it is.

Q And, you weren't allowed to be on that side of Dixie Way that day; is that correct?

A Correct.

[p. 40] Q So, it wasn't your prime spot you chose to go there.

A Right.

Q You went there when you weren't allowed to go where you normally go.

A Right.

Q And, again, just for the record, if a car pulls in off of U. S. One, they're in the right lane here. Would they have to swerve across to the other side of traffic to be able to take literature from someone who was off the road on the south side?

A I would believe so. The way the Melbourne Police Department is, they would tend to, if you stuck your big toe over that line to hand somebody some literature, they would arrest you on the spot.

Q So, if you were not allowed to step into the road at all, if you were confined to the south area, would it be possible to hand literature to a car? Would they have to swerve across the road to get close enough?

A No. You would be ten or twelve feet from them.

Q You would be ten or twelve feet away from them.

A Right. They would have to come into right – west – they would have to go into the wrong lane.

MR. CADLE: No further questions.

THE COURT: Dr. Snydle referred to you as Bruce on various occasions. Do you recall the last time he may [p. 41] have done that?

THE WITNESS: I don't recall the time. I don't recall the exact date.

THE COURT: Was that before or after September thirtieth?

THE WITNESS: I would think there was probably one occasion after the thirtieth. But, I can't give you an exact date or time.

THE COURT: After that date –

THE WITNESS: It was at Aware Woman.

THE COURT: After that date did you see him on other occasions?

THE WITNESS: Yes. I've seen him after that. I've seen him at Aware Woman after September thirtieth.

THE COURT: Did he continue to use Bruce or did he address you by your proper name?

THE WITNESS: In recent months he has not addressed me as anybody.

THE COURT: Any further inquiry?

MR. D'ALEMBERTE: Your Honor, we need to keep this witness available to the Court in case of the technicality of bringing him back.

MR. WEISS: I withdraw the earlier objection, Your Honor, with respect to and admissibility of the document I don't want him to have to hang around.

[p. 42] MR. D'ALEMBERTE: That was my only worry.

MR. WEISS: So, I'll withdraw the objection.

THE COURT: Let it be received then. Now, may this witness be excused?

\MR. D'ALEMBERTE: Yes, sir.

THE COURT: Thank you, sir. The Court would excuse you.

* * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA :

: ss:

COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the foregoing proceedings were reduced to shorthand in the presence of the within-named parties and later transcribed; that the foregoing is a true and correct transcription of the excerpt of the proceedings as aforesaid.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on May 8, 1993, in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No: CC053127

[SEAL]

[p. 1] IN THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL
CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC.,
AWARE WOMAN CENTER FOR CHOICE,
INC., EPOC CLINIC, INC., AND
CENTRAL FLORIDA WOMEN'S HEALTH
ORGANIZATION, INC.,
Plaintiffs,

vs.

OPERATION RESCUE, OPERATION
RESCUE AMERICA, OPERATION
GOLIATH, ED MARTIN, BRUCE CADLE,
PAT MAHONEY, RANDALL TERRY, JUDY,
MADSEN, AND SHIRLEY HOBBS,

Defendants.
_____/

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

A hearing in the above-styled cause was held at 9:30 o'clock a.m., on Wednesday, the 24th day of March, 1993, in a courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

[p. 2] APPEARANCES:

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TRANSCRIPT OF PROCEEDINGS

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[p. 3] WHEREUPON:

The following proceedings were had:

PAM DOYLE

a witness herein, having first been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MS. PATRICK:.

Q Tell the Judge your name, please, ma'am?

A Pam Doyle.

Q Ms. Doyle, please speak up. You're verysoft spoken.

A Okay.

Q Where do you work?

A I work at the Aware Woman Center for Choice in Melbourne.

Q And, during the past eight months or so have you been the subject of demonstrations and pickets at your home in which the Defendant Bruce Cadel [sic] has been involved?

A Yes, I have.

Q All right. What I would like to do is for you to tell the court about those experiences. In August of 1992 would you tell the Court what happened [p. 4] at your home.

A It's really hard to tell. I'm sorry.

Q Ms. Doyle, do you know the Defendant Bruce Cadle?

A Uh-huh.

Q Why don't you tell the Court how you know him.

A Prior to divorcing my husband a year ago we had thought about selling our home. He was an advertised

real estate agent. His son Brent was also my daughter Heather's personal boyfriend at school.

That's how I knew him. And, that deal fell through. My husband and I were divorced.

We had moved into the apartment and after the divorce, my three daughters and myself had been there approximately two weeks. This was on a Sunday afternoon.

Q That would be in August of 1992?

A Yes. That's correct. And, we were returning home from their father's house with some belongings that were still there. And, on one of the trips up the stairs had noticed two little girls coming down the stairs. We moved over to let them come down the steps.

I noticed they were putting some leaflets [p. 5] down in the front of the doors. And, I looked down and I noticed my name. And, I knew just immediately what it was.

MS. PATRICK: May I approach the witness, Your Honor.

THE COURT: Yes.

Q Ms. Doyle, I'm showing you what has been marked for identification as Plaintiff's Exhibit PP?

MR. WEISS: May I take a look at it first, Your Honor?

MS. PATRICK: I believe you saw it the last time. It certainly –

MR. WEISS: You gave me a whole stack – a set of copies. You flashed them at me for a few seconds. I don't have a photographic memory.

MS. PATRICK: Counsel, you sat at the table with a considerable amount of time to look at this. I don't want to bypass you.

While counsel is looking at the exhibit, let me ask a few clarifying questions of Ms. Doyle to try to speed things up.

Q Ms. Doyle, are you familiar with an organization known as Rescue America?

A I'm familiar with their recent actions or their actions toward me and my family.

[p. 6] Q Ms. Doyle, would you have a look, please, at the exhibit that is marked as Plaintiff's PP?

MR. WEISS: QQ?

MS. PATRICK: It's actually double P.

MR. WEISS: Your Honor, so the record can be clear, the terminology, this is the first time anybody used Rescue America. I believe the stipulation in all the prior testimony did not involve my clients or Rescue America and I think she is contradicting that. I don't want there to be confusion about that.

MS. PATRICK: No. I think, let me clarify this. This witness, Your Honor, is not going to testify as to Rescue America, Ed Martin, Ms. Madsen, and Ms. Hobbs –

MR. WEISS: Thank you.

MS. PATRICK: She is being offered as to activities of the Defendant Rescue America, excuse me, Operation Rescue, it's the Impact Team and Defendant Cadle.

MR. CADLE: Your Honor, I would object to this document being offered into evidence. It was stated that it was published for distribution in August prior to this Court's permanent injunction of which there is a motion [p. 7] we're here to deal with.

MS. PATRICK: Your Honor, what I would like to do is to begin to show beginning in August of 1992 the lengths to which Defendant Cadle has gone with relevance related to his conduct in connection with the violation of the permanent injunction. If I may proceed, I will be brief.

THE COURT: With your theory of how it is, right.

MS. PATRICK: Your Honor, we will have to show –

THE COURT: We have to assume that once he was put under the court order he has since obeyed the court order not to do those things he may have been doing previously.

MS. PATRICK: Your Honor, we will show that subsequent to the distribution of this leaflet and subsequent to the entry of the court order in December of 1992 and February of 1993 Defendant Cadle was responsible for some personal harassment of Ms. Doyle at her home both in the form of pickets and in the form of an Impact Team descent upon her home in the early morning of

February 20, 1993. And, it is a continuing pattern of conduct.

[p. 8] So, even though this predates the permanent injunction, it shows this witness' familiarity with Defendant Cadle, his control over the harassment that has been directed against her which is part and parcel of the conduct at issue.

MR. WEISS: Your Honor, I also object to this document. It does not say who authored it. To my knowledge it does not have a name on it. I do not see at least an organizational name on this document.

THE COURT: Well, if you will proceed with the predicate before I make the final decision here.

Q Ms. Doyle, on the day in August of 1992 when these leaflets were distributed at your home, did you see the people who were distributing them?

A Yes.

Q Would you describe them?

A You mean the young ladies?

Q Uh-huh.

A There were these two young girls of approximate ages I don't know, somewhere probably younger than my oldest daughter who is sixteen. Probably somewhere between the ages of twelve and [p. 9] sixteen.

Q All right. And, after they left the premises did you see those girls approach anyone outside your apartment?

A Yes. I wasn't aware at the time. Apparently I was unaware that there were people out on the roadway until I did go out to find my daughter and see what was going on and meet the police.

And, then I saw the girls after the police told them that they were trespassing, that they needed to leave the property. They walked toward the group that was out on the road.

Q And, did they walk toward any particular individual out on the road?

A Well, Bruce Cadle was out there.

Q Did they walk towards Mr. Cadle?

A Yeah. They walked towards the group of which Bruce Cadle was part of.

Q Did you see them speak with Mr. Cadle?

A Yes, I did.

Q Was the group in which Mr. Cadle was standing carrying picket signs?

A Yes, they were.

Q What did the signs say?

A Signs with my name on them saying that I [p. 10] was a baby killer.

Q And, is this the leaflet that was distributed in connection with the picketing at your home in August of 1992?

A Yes. It is. It was also redistributed at the second picketing.

Q All right. And, the second picketing occurred in what?

A December thirteenth.

MS. PATRICK: Your Honor, at this time we would offer. Plaintiff's PP for Identification.

MR. WEISS: I don't believe it's been properly authenticated my clients, I'm sorry, not my client, that this party Mr. Cadle has not authored the document or disseminated it. It hasn't been properly authenticated who the author of it is. She doesn't know who the author of it was.

MR. CADLE: In fact, Your Honor, it was not presented when I was on the stand. I was never questioned relating to this document. Counsel had that opportunity to present it with a variety of other documents.

THE COURT: You've suggested, counsel, that perhaps the document itself would show a [p. 11] knowledge or relationship between this witness and Mr. Cadle. Does it?

MS. PATRICK: It is part and parcel of the harassment that Mr. Cadle has targeted against this witness. Perhaps if I move to the December thirteenth event, have that described to the Court. We can proceed on in this fashion.

THE COURT: At this time I sustain the objection to the admissibility of the document.

MS. PATRICK: All right.

Q Ms. Doyle, moving forward in time to December thirteenth.

A Uh-huh.

Q Would you tell the Court what happened on December thirteenth?

A Again, it was a Sunday afternoon and my children and I had just returned home. And, two of my children were outside and they returned in after about five minutes after we had been home saying that they're back. And, what do you mean they're back. She said Bruce Cadle is back outside.

Q All right. Did you go outside?

MR. CADLE: Your Honor –

A Yes I did.

MR. CADLE: I object to this line of [p. 12] questioning in the testimony. The charge, as it relates to me, according to the motion before the Court is related to the purpose of blocking or obstruction of ingress into the driveway, demonstrators totally swarming around cars, attempting to trap the patients that wee [sic] attempting to enter the driveway of the Aware Woman Center for Choice related to trespassing on, sitting and blocking, obstructing the the [sic] ingress and egress, physically abusing people at any facility in which abortions are performed.

The testimony as I understand where it's about to go is all related to a private residence not at all related to Aware Woman Center for Choice or the plaintiffs in this case. I believe it's irrelevant and immaterial.

MS. PATRICK: Your Honor, as the Court has observed, picketing at the residence of a person can be so

severe and so targeted at them as to interfere with their ability to go to and from work. And, that is exactly the purpose for which we are offering this.

As the Court will see this woman has been repeatedly harassed in her home and that is clearly relevant to her ability to enter [p. 13] and leave the facility with a sense of safety.

And, on also to the charge that Mr. Cadle has physically abused persons entering and leaving, working at the clinic. This woman works at the clinic.

She has been targeted at her home. That is clearly relevant. It does not require his physical presence in the driveway for her to violate this injunction but by his conduct so harasses her that she feels limited in her ability to go to the clinic.

And, that is the exact nature of this evidence.

MR. CADLE: Your Honor, I would further like to state that the specific charge against me, page three, paragraph C is related to being on site at the clinic in a harassing activity designed to obstruct ingress and egress to the clinic.

This whole line of questioning is related to this woman's private residence and activities which they are seeking in Motion Two to prohibit as well. I fear that this line of testimony is related to Motion Two, which does deal with going outside the residences of employees.

[p. 14] Further, Your Honor, I believe she has testified already that this is a Sunday afternoon activity. And, Aware Woman Center for Choice is not open on Sunday.

So, it could not be related to her trying to go to work on Sunday afternoon.

THE COURT: Again, it's something that depends on degree. I haven't heard the testimony. It's hard to judge in a vacuum. But, the Court can, you know, see a situation where whatever's being done at the home would prevent somebody from wanting to go work.

To the extent that it might do that, it is relevant. Overrule the objection.

Q Ms. Doyle, on December thirteenth, did you then leave your house and look to see who was outside?

A Yes, I did.

Q Did you see the Defendant Bruce Cadle there?

A Yes, I did.

Q What did you see him doing?

A Again, they were a very vocal group of approximately thirty people again with signs with my name on them stating that I was a baby killer.

[p. 15] Q What, if anything, what role did Mr. Cadle appear to be playing in connection with that demonstration?

A Well, really he was a very significant part of that group.

THE COURT: That's an opinion on your part. I need you to –

A Yes.

THE COURT: I need you to describe what you observed. I don't know what you mean by the word "significant".

A He was an active part, a member of the group of people that were demonstrating.

THE COURT: Describe what he was doing.

THE WITNESS: Carrying signs every time this has happened to me, I don't stay out there. It's difficult for me because I have three children.

Q Did you see him speak to the others involved in the picketing at your home?

A Uh-huh.

Q Did they appear to you to respond to direction, by Mr. Cadle?

A Yes.

THE COURT: You are leading her terribly.

[p. 16] Q What response did people give to any of Mr. Cadle's conduct, Ms. Doyle?

A What I heard from the group for which he was a part of was shouting at cars, cars that would go by, at other residents that lived where I lived as they entered, they handed out the leaflets.

Q All right. And, the leaflet is what has previously been marked as Plaintiff's Exhibit –

A Yes. That's correct. The same.

Q Did you see Mr. Cadle –

THE COURT: Are you saying that's the same leaflet as in August.

THE WITNESS: Yes, sir.

Q Did you see Mr. Cadle with that leaflet in his hand?

A No, I did not see. I let the police handle the situation.

Q When you went back in your house after you observed the picketers and Mr. Cadle with their signs calling you a baby killer, how did you feel?

A Trapped.

Q Did you feel free to leave your home?

A I couldn't.

Q Did you feel free to go to the clinic?

A It's hard to go there any day.

[p. 17] Q Why?

A Not knowing what to expect, personal attacks. It's hard to leave the children not knowing what's going to happen to them. Just very unprotected, very vulnerable.

Q On the day that Mr. Cadle was carrying the picket signs outside of your house, did you feel free to go to the clinic if you needed to do that?

MR. WEISS: Objection. She's – a certain amount of leading is fine. But, we're really down a long path.

THE COURT: Sustained.

Q What was your feeling with regard to your ability to go to the clinic on the day this demonstration occurred?

MR. WEISS: Same objection.

THE COURT: It's not leading in the way it's rephrased. Overruled.

A And, as and I stated every day that I do go to work it is not without fear for myself or my children.

Q What role does the picketing at your house play in that fear?

A They – being a single mother it has a very great impact on me. They are alone. It's very hard [p. 18] to leave.

Q Directing your attention now to the date February 20, 1993, was there another incident at your home?

A Yes. There was.

Q Would you tell the Court about that, please.

A It was on a Saturday. And, I had just arrived at work, just walked in the door and I received a message from Ruth Arick who was on the telephone with one of my children.

Q Okay.

MR. WEISS: Objection, Your Honor, hearsay.

THE COURT: It is not offered for the truth of the matter. It was whether or not a message was given.

Q Go ahead.

THE COURT: It was overruled?

A I was told my child was on the phone crying.

MR. WEISS: Your Honor, if a message was given, she can't talk about what was said by hearsay.

THE WITNESS: It wasn't a message.

THE COURT: Overruled.

[p. 19] Q I'm sorry. Did you speak to the child?

A Yes. I did. And –

Q Which one did you talk to and what was the conversation?

A I spoke with my middle child, Christen ten. And, the conversation was very short. All I heard, "They're here." I just said I'd be right home. I left work to go home.

Q What did you perceive her emotional state to be when you spoke to her?

A They were terrified because this time they went to my door.

Q Ms. Doyle, how many people went to your door on February twentieth?

A Approximately fifteen people.

Q Did you go home and –

A Yes. I went home.

Q What did you see when you arrived there?

A When I arrived home apparently the police had been called during the interim and had removed the

people that were there from my front door back out on to public property.

And, my main concern was just to get home to my children.

Q What did you find when you got to your [p. 20] house?

A Three terrified little girls.

THE COURT: What are the ages of your children, please.

THE WITNESS: Fifteen, eleven, and nine.

Q What did they say to you when you arrived there?

A They explained there was a knock on the door. And, the really confusing part of all of this for them and for me, that day was we were moving. We were moving the next day. They were expecting their grandmother and grandfather.

Q Ms. Doyle, why were you moving?

A We needed to find a safe place that provided some sense of security, some place if they did find us that at least it would not be invisible to the public.

Q All right. So, your children were expecting your grandmother and grandfather, their grandparents. They got –

A My youngest daughter ran and opened the door. There was a woman standing there, a man, yes, excuse me, a man with a camera.

And, what I was told from my daughter, that the woman stated that she did not have – they were [p. 21] not there to harass them, the children. But, they wanted to convince them to convince their mother not to work at Aware Woman and stop killing babies. They were going to go to all my neighbors and have them convince me.

Q How many people were there at your home when you arrived from the clinic?

A I can't state for sure. But, probably at least no less than fifteen.

Q Do you know who they were related with?

A I'm sorry.

Q Do you know who they were affiliated with?

A I can only assume they were affiliated with the IMPACT Team.

MR. WEISS: Move to strike for her to assume. And, move to strike all this line of testimony. She's making assumptions. They're affiliated with IMPACT Team. She is not testifying that Mr. Cadle did it.

I would move to strike all of this. This is baseless assumptions on her part that there is some nexus with Mr. Cadle.

MS. PATRICK: Your Honor, this witness has not testified to any matter involving Mr. Weiss' clients in connection with these demonstrations.

[p. 22] MR. WEISS: As an officer of the Court I move to strike that testimony. As there is a non-lawyer here who's getting hammered, I just think it's my oath to the Court to move to strike that testimony. It has not been demonstrated there is any nexus between Mr. Cadle and that activity.

THE COURT: You want to ask her whether Mr. Cadle was present among the group that morning?

Q Did you see Mr. Cadle there that morning?

A That morning my only focus –

THE COURT: I'm sorry, say again.

A My whole purpose was to get home to my children.

Q In your work at the Aware Woman Clinic –

MR. WEISS: Move to strike. The answer was unresponsive. The question was was Bruce Cadle there, yes or no.

MS. PATRICK: Excuse me, Your Honor.

THE COURT: Can you answer the question, please?

A To my knowledge I did not see Bruce Cadle that day.

MR. WEISS: All right, Your Honor, I would [p. 23] renew my motion to strike all the prior testimony. No nexus demonstrated to Mr. Cadle.

MS. PATRICK: Your Honor, I'll draw a nexus if you like.

Q In your work at the Aware Woman Clinic, Ms. Doyle, have you become familiar with what is called members of the IMPACT Team?

A Yes.

Q Did you see what you know to be members of the IMPACT Team at your house when you arrived there the morning of February 20, 1993?

A Yes. I recognized their faces but I don't know their names.

Q All right. Now, Ms. Doyle, when you heard that they had come to your door and heard what they had said to your children, how did that make you feel?

MR. CADLE: Your Honor, I'd like to object to it. Ms. Doyle has already established I was not there. And, she is not claiming any of the other defendants were there.

The IMPACT Team is not on trial here. They are not defendants in this action. I feel that I'm being lumped in with a group of people or everything they may have done. I was not there.

[p. 24] MR. WEISS: I would renew my motion to strike, Your Honor. This is a highly inflammatory, unwanted nexus with this party.

MS. PATRICK: Your Honor, the Court observed there is a variety of nexus. One suggestion involves directing others to engage in activities. And, by Mr. Cadle has testified he admitted he was one of the organizers for the IMPACT school. He has been at that school for class

every day. He stated and that one of the parts of IMPACT Team training is to go out and conduct field exercises.

That sort of training that I suggest, Your Honor, is the nexus we have here. One of the quote unquote field exercises that has been directly effected this witness and her ability to go to work. This is the picketing at her home.

MR. CADLE: Your Honor, my testimony also showed that I was never involved in the residential picketing of the IMPACT Team and any of their residential activity. I have not been present with the IMPACT Team on those.

MS. PATRICK: Your Honor, that is it –

THE COURT: Mr. Cadle, one of the problems I [p. 25] have here, you are like the man who was going to light the fire to burn the underbrush. It got out of hand. And, you, if you put in motion a distructive [sic] force, you, even though you are not present you are responsible for that force.

MR. WEISS: Your Honor, I want to just interpose an objection. Nobody has testified that Mr. Cadle directed a single person to go out to that premises. And, Mr. Cadle, if this Court is finding whatever IMPACT Team does, regardless of whether or not Mr. Cadle instructed them, or regardless of what they do he's responsible for it then, that's a different question.

But, I don't think that's what has been charged here.

MR. CADLE: In fact, Your Honor, it appears that all the testimony –

MR. WEISS: Your Honor, there is the unrebutted testimony of Mr. Cadle, out of his own mouth, he swore under oath that he never instructed anyone to trespass. He never instructed anyone to harass. There is no foundation whatsoever that this party instructed anyone to take what are clearly offensive steps.

[p. 26] THE COURT: Counsel, you know I've heard his testimony. I have to judge its believability. And, because he said it doesn't necessarily mean it's so.

MR. WEISS: Your Honor, if anybody would come to the stand and testify that he did do this, testify that he did instruct it.

MS. PATRICK: With all respect to counsel, he can certainly cross-examine this witness on behalf of a client he doesn't represent if he wishes to do so. It is not an argument as to relevance, to argue what one witness has said over another is something for the Court to decide, not counsel.

I realize he has a desire to prevent this testimony from going forward, but I think we can complete it. I think it's clearly relevant.

MR. CADLE: I believe, Your Honor, this entire line of testimony that we've heard so far is not related to Aware Woman Center for Choice and the physical facility that is named in this court order.

THE COURT: Which?

MR. CADLE: Where she worked. None of the descriptions, none of the discussions has been [p. 27] related to being at Aware Woman as it would relate to me. It's all been related to her home.

THE COURT: Overrule the objection.

Q Ms. Doyle, with regard to the events of February 20, 1993, would you tell the Court whether the people who came to your house were on your private property?

A I don't know how to answer that because I was renting and I don't know what the law is as far as my rights as a renter were due me. I don't know. I don't understand.

Q They came to your front door?

A They knocked on my front door. If that's considered my property, then, yes.

MR. WEISS: Your Honor, I move to strike. This witness was not there when anybody knocked. She has no personal knowledge of them knocking on her front door. She wasn't there

MS. PATRICK: Your Honor, we're offering –

THE COURT: Yeah. He's right.

MR. WEISS: No adequate predicate for her to state that.

Q Ms. Doyle, after you spoke with your daughters about what had happen, did you also speak [p. 28] with the police?

A Yes.

Q All right. And, what did the police tell you about what happened?

MR. CADLE: Objection, hearsay.

THE COURT: Sustained, hearsay.

MS. PATRICK: Your Honor, I'm not offering it for the truth.

THE COURT: Yeah, you are.

MS. PATRICK: Really, no I'm not. Your Honor, I'm trying to show the overall climate that has been created by this activity and this witness' life and show its effect on her ability to go to work. All of the climate that has been created as a logical consequence of these actions is relevant.

THE COURT: But –

MS. PATRICK: It's not magic to me whether they were or weren't on private property. It is important, I think, for this Court to understand the fear that was created by this conduct.

MR. CADLE: Your Honor.

THE COURT: What's her testimony about what a policeman man have to do –

[p. 29] Q All right. Ms. Doyle, would you tell the Court how you felt after you saw the people who had been at your house?

MR. WEISS: Your Honor, cumulative at this point.

THE COURT: Move forward.

MS. PATRICK: I don't think I have in connection with the February twentieth events, Your Honor. We have only inquired as to December.

THE COURT: All right. You may make the inquiry.

Q Would you tell the Court, Ms. Doyle, how you felt after the events of February twentieth?

A I felt because they came so close at that time to my family we'd been raped, our privacy invaded.

Q What did you do, Ms. Doyle, the day after this happened?

A We moved.

Q Why did you move?

A Because as I had said before I needed a safe place for my family.

Q And, what steps did you take as a mother to deal with this in connection with your daughters?

[p. 30] A I have to make arrangements every day to know exactly where they are, how they' re to get there. I have to instill in them how to be safe.

I recently had a need to write them letters.

Q What is the purpose of the letters, Ms. Doyle?

A I felt that in case one day I'm at work and the clinic is gone for some reason that bodily harm was done, I wasn't here, I wanted them to know why and how I felt.

THE COURT: Counsel, I can't understand her answer.

THE WITNESS: I'm sorry.

THE COURT: If she needs to have a recess to recompose herself or it doesn't do any good.

THE WITNESS: I can go on. It's okay. I wanted them to know.

Q Know, know what?

A Know that I loved them.

Q What effect has the picketing at your home had on your willingness to go to work each day?

A Every day I get up to go to work I ask myself can you do this one more day. Can you cross that line one more time.

[p. 31] Q What line are you talking about?

A The line of the constant and consistent harassment that takes place in front of the clinic.

Q Have you seen Bruce Cadle in that line?

A Yes, I have.

Q How many times have you seen Bruce Cadle in that line?

A I can't state an exact number of how many times.

Q Has it been often?

A Frequently.

Q Frequently?

A Yes.

MS. PATRICK: If I may have a moment, Your Honor?

THE COURT: Okay.

MS. PATRICK: That's all I have, Your Honor.

THE COURT: Okay. Cross-examination?

CROSS-EXAMINATION

BY MR. WEISS:

Q The flier that you made reference to, you have no personal knowledge who typed that document; do you?

A Of course not.

[p. 32] Q Okay. And, you have no personal knowledge as to whether or not Mr. Cadle authored it?

A No, I don't.

Q Now, you also have no personal knowledge of Mr. Cadle instructing anyone to go to your premises; do you?

A No, I don't.

Q And, you have no personal knowledge that Mr. Cadle instructed anyone on either date to approach your house?

A No. Of course not.

Q That picket line out there when those folks are exercising their Constitutional First Amendment rights to walk up and down, that scares you every time you cross that line; doesn't it?

A Excuse me, which one.

Q The one in front of the clinic which is hundreds of peaceful people out picketing. That scares you; doesn't it?

A Certainly it does.

Q And, when this walking and carrying signs sometimes on their knees praying there I think when this is happening there, ma'am, that spooks you; doesn't it?

A No, it doesn't.

[p. 33] Q That doesn't spook you?

A That's their right to do, as you said. That's their constitutional right to do that and I respect that right.

Q All right. So, it doesn't bother you in any way to get – go into the clinic when you see these folks marching, exercising their First Amendment rights in prayer –

A Prayer doesn't scare me.

Q Marching, holding up signs?

A Marching, yelling, name calling, that's –

Q Marching scares you? That's –

A Marching and yelling and name calling scares me. Yes, it does.

Q Tell me about what, what about the marching scares you when a person is holding a placard saying "Stop abortions". Tell me what scares you about that?

A I don't quite understand what you are asking.

Q Are you, as far as marching they could be walking?

A It's their presence that scares me.

Q Okay.

A The praying doesn't scare me.

[p. 34] Q As long as they're silent on their knees praying to God, that doesn't scare you?

A No, it doesn't.

Q When they get up and start marching around –

A Yelling, name calling.

Q That bothers you?

A Yes, it does.

Q Does it bother you when hundreds of National Organization of Women are on the marching line when they were yelling and screaming "Roe, Roe, Roe v. Wade"? Does that make you feel good?

A That's their Constitutional right.

Q So, pro aborts screaming, that doesn't scare you?

A When hundreds of people, they comfort me. When they' re directing that action toward me personally, no. None of them are calling me names And, they' re not preventing me from doing what I have the Constitutional right to do, to go to work.

Q Now, are you ashamed to have your neighbors know you are engaged –

A Absolutely not.

Q – in a perfectly –

A Absolutely not.

[p. 35] Q So, if you are not ashamed about it, why do you mind folks with signs marching outside your

residence letting it be known you are working at an abortionist? You are upset that it comes before the camera?

A It has to do with how I feel about that action. It has nothing to do with shame. If I felt shame, I certainly wouldn't be doing it. I'm proud of what I do, sir.

Q Has Mr. Cadle ever touched you?

A Of course not.

Q Has Mr. Cadle ever touched any of your children?

A No.

MR. WEISS: Nothing further.

CROSS-EXAMINATION

BY MR. CADLE:

Q Ms. Doyle, you said that day in August –

THE COURT: Mr. Cadle, I'm troubled by Mr. Weiss, he's already cross-examined this lady on your behalf. But, now, you want a second chance to cross-examine her. You know, you didn't stop him and I didn't stop him. It's a little unfair.

MR. CADLE: Your Honor, I was under the [p. 36] impression that we both cross-examined every witness Your Honor.

THE COURT: As it relates to his respective clients.

MR. CADLE: Since I am representing myself and all of her testimony has been directed at me.

THE COURT: Mr. Weiss has done a good job on your behalf.

MR. CADLE: I don't have the right to continue cross-examination.

THE COURT: Yeah. I'll let you do it. If we're going to continue this type of thing, I'm going to put a stop to it, I guess, Mr. Weiss.

MR. CADLE: I'll be very brief, Your Honor.

BY MR. CADLE:

Q Ms. Doyle, you said on a day in August you saw me out in front of your apartment complex. Is it –

A That's correct.

Q Do you recall what day that would be?

A August the sixteenth.

Q August sixteenth. And, you are absolutely positive that you saw me personally?

A Yes, I am.

[p. 37] Q In front of your apartment complex on August sixteenth?

A Uh-huh.

Q And, do you recall doing any interviews with the press or media after that day?

A Uh-huh. Yes, I do.

Q Do you recall any statements that you made to the press?

A Not verbatim. But, I'm sure they're in the newspaper.

Q Did you, in fact, tell the press that you quit your job as a result –

A I did quit my job.

Q You quit working?

A I certainly did.

Q And, do you recall if my name was in that newspaper article?

A I don't recall.

Q And, on that day did you see me with those fliers in my hand?

A No, I didn't.

Q Did not?

A The children had them.

Q The children.

THE COURT: Which day please.

[p. 38] THE WITNESS: On August sixteenth and December thirteenth.

Q You said that prayer does not bother you?

A No, it doesn't.

Q Does it bother you as an employee to see people At Aware Woman for Choice praying on the public sidewalk or the public right-of-way?

A Absolutely not. Prayer is wonderful.

Q You have nothing against –

A Absolutely not.

Q – people continuing to be allowed on the public sidewalk praying?

A That's correct.

Q Have you brought your daughters, since these incidents have you brought any of your daughters to Aware Woman to participate in any of the demonstrations?

A Bringing them? I don't understand what you mean by bringing? Forcing them to come? Am I asking them to come? What is –

Q Have any of your daughters, I believe you said they're ages nine, eleven, and fifteen, participated in Pro Choice demonstrations?

A My oldest Heather, like your son Brent frequently, likes to come to the clinic. I have [p. 39] allowed her to come one time. Because I felt that it would have therapeutic value for her to have a voice.

Q Do you recall the dates that she would come to these activities during the IMPACT Team training school?

A Yes, it was.

Q She came out and demonstrated with the Pro-Choice –

A One time.

MR. CADLE: No further questions, Your Honor.

THE COURT: Redirect?

MS. PATRICK: No, Your Honor. We have nothing further.

THE COURT: May this witness be excused?

MS. PATRICK: Your Honor, if the witness wishes, can she remain in the courtroom room.

THE COURT: She would remain under the rule. She can't talk about her testimony.

[p. 40] CERTIFICATE OF REPORTER

STATE OF FLORIDA :

COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the within-named witness was first duly sworn to testify the truth, the whole truth, and nothing by the truth; that the testimony then given by her was by me reduced to shorthand in the presence of the witness; afterwards transcribed by me; that the foregoing is a true and correct transcription of the testimony so given by her as aforesaid.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on February 1, 1994 in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No.: CC053127.

[p. 1] IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA
CASE NO: 91-2811-CA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, IN., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Petitioners,

vs.

OPERATION RESCUE OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,

Respondents.
_____/

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

The hearing in the above-styled cause was held at 9:30 a.m., on Wednesday, the 24th day of March, 1993, in a courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

[p. 2] APPEARANCES:

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BY: CHRISTOPER J. WEISS, ESQUIRE

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[p. 3] WHEREUPON:

The following proceedings were had:

RUTH ARICK

A witness herein, having first been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Please state your name and address and occupation?

A My full name is Mary Ruth Ann Arick. My home address is 1009 Morborough Drive in Deland, Florida.

Q Is it A-r-i-c-k?

A A-r-i-c-k. That's correct. I'm a management consultant and currently employed by Aware Woman Center for Choice and the Feminist Majority Foundation.

Q In a consulting capacity or regular?

A In a consulting capacity for both.

Q If you will describe for the Court what duties you have in your consulting capacity?

A With Aware Woman Center for Choice, I was initially contracted with in mid-September or early [p. 4] October of 1992 to provide management services, transitional management services to come in and do an evaluation of the corporation of the clinic, of the processes they were using, their staffing pattern to make a determination about the financial well-being and health of the corporation to create and monitor public relationships and making plans and advertising, to participate in staff hiring and training and to create training models for the staff, as well.

Q Did you have contact with the Aware Woman Clinic prior to September 30, 1992?

A Yes. I've known the owners and many of the staff of this Aware Woman facility since August of 1992.

Q And, your engagement as a consult began when?

A In September of 1992 I had done some work, small project work for this facility. And, in October or November of 1990, as well, a small one week project.

Q Now, is your background for some years in the area of women's health?

A Yes, it is. In 1976 I began working in family planning facilities in Pennsylvania. And, in [p. 5] 1982, moving to Florida, I managed several clinics in the Central Florida area including two of those that are involved in this injunction. The Women's Health Center out in Orlando and Daytona.

Q For the purposes of all my questions, Ms. Arick, I would like you to limit your answers to the period, let's say October 1st, 1992 forward?

A Okay.

Q And, throughout this, if you have some answer that goes beyond that, please identify you are testifying to a different time period?

A Okay. Fine.

Q All right. Now, there is a videotape. What's the number of the exhibit? It's on the left of the line?

A Plaintiffs' Exhibit XX.

MR. D'ALEMBERTE: Your Honor, that's been marked for identification. Opposing counsel has not seen

that videotape. It has been described to counsel and Mr. Cadle, which I will make a representation if I may.

THE COURT: Make the representation.

MR. WEISS: I have a concern about that.

MR. D'ALEMBERTE: Let me ask a few qualifying questions.

[p. 6] Q Are you fami1iar with this videotape?

A I am.

Q Exhibit XX, can you tell us how that was prepared?

A The videotape was edited and prepared from three separate videotapes at the Aware Woman site and at the residence of the owner Patricia and Ted Windle. Those videos were taken by volunteers and/or staff members of Aware Woman to document the demonstrations and the process that was happening at the clinic and at the residence of owner.

I supervised the editing of the pieces that were recorded on the tape that you wili see here on Saturday, just this Saturday past.

Q Now, to be sure the record is clear, you did not actually hold the camera and take the videotape?

A I did not.

Q In your editing process, did you edit out those scenes which you personally did not witness?

A The scenes that were edited are duplicative of that footage which is there. The footage of the scenes that were kept were scenes that I was present for.

Q You were personally a witness for the [p. 7] scenes, all the events depicted on Plaintiffs' Exhibit for Identification XX?

A Yes. I was.

MR. D'ALEMBERTE: With that we would now like the Court to introduce Plaintiffs' Exhibit XX to view that with the commentary by the witness explaining what the video shows.

MR. WEISS: Your Honor, let me object to the admissibility of the videotape itself. I don't think that the editing process, you know, did we just clip the inflammatory stuff? Did they photograph the pro-aborts screaming and yelling? Did she just, you know, focus the whole editing process turned against us.

We have photographs and videotapes taken by third parties, not her. And, we have a paid employee coming in and editing these obviously, obviously editing in the most favorable light to their client.

I'm very, very concerned about the inflammatory nature of them. Does the editing fairly reflect and accurately reflect conditions that took place on these sites as a result of this editing process.

THE COURT: Voir dire?

[p. 8] MR. WEISS: If I may, Your Honor.

VOIR DIRE EXAMINATION

BY MR. WEISS.

Q You receive checks from Aware Woman; right?

A I do.

Q Okay. And, they paid you for performing this editing function; did they not? That's part of your duties?

A In fact, yes. That was a part of my duties. Sure.

Q And, you took the footage and you decided on your own what portions of the footage were to be included and what portions of the footage were to be excluded?

A That's correct.

THE COURT: All right. And, you took the footage?

THE WITNESS: I did not take the footage. I supervised the editing process and was supervising the selection of the pieces in the tape.

MR. WEISS: Two problems. She didn't take the photographs. And, secondary she was acting as editor. And, so I think with respect to both of those it is inadmissible under 401.2.

[p. 9] THE COURT: Photographic-type evidence, if the witness is not – I don't know that she's been asked whether or not it represents that which it truly represents, which is an important trace with that predicate. She doesn't have to be the cameraman.

MR. WEISS: One final thing. We do have some concern with the audio portion of it because that, under the rules, constitutes a second element if we're talking if I accept the video. Then, we don't have the hearsay objection that might be made because the rule does deal with

the audio portion is admissible only if it's determined separately. And, I'm quoting from that the video portion of the audio portion, all the test for admissibility with respect to hearsay, etc.

THE COURT: Well, in as much as in this type of proceeding, I'm the trier of fact and also the judge of the law you are going, if you feel it, you know, is not representative or if it's been doctored to the point that it doesn't reveal the truth, I need your motion to strike and then I'll rule on it. I can't make that determination in a vacuum.

[p. 10] You may inquire.

DIRECT-EXAMINATION

CONTINUED BY MR. D'ALEMBERTE:

Q And, Your Honor, to make sure all the points of predicate are here, Ms. Arick, does this video fairly represent scenes on the dates that you'll testify to?

A It did.

Q And, did the audio portion fairly represent the sound of the scenes on the day you'll testify to?

A It does.

Q Now, the editing process, if I may represent to the witness, there has been testimony in this court quite a large number of videotape cameras were on the scene.

Can you tell us whether or not the videotape cameras were being operated not only by the Aware Woman Clinic, but also people in the demonstration as well?

A Yes. There were people on both the grounds of the clinic and the demonstrators operating video cameras.

Q And, news cameras were there?

A There were news cameras there. There were also police cameras there.

[p. 11] Q There is a vast amount of videotape available?

A Absolutely.

Q Do you know approximately how many hours of tape were taken by the Aware Woman Clinic?

A I would say at least six to eight hours altogether.

Q And, was this videotape editing done at my request to a half hour segment of videotape?

A No, it was not.

Q What was the objective in terms of length of time?

A It – the videotaping has been done has been done to document the outside of the facilities.

Q The editing process was trying to get something that would not take a full day of the Court's time?

A It was.

MR. D'ALEMBERTE: Now, with that understanding if we may begin a videotape. I've asked the witness to please read the time numbers that are on the videotape. We can also stop at any time you or counsel have any problems.

THE COURT: Mr. Bailiff, provide a chair in [p. 12] front of it, I guess.

THE WITNESS: I can stand.

THE COURT: Well, if it's a half hour, if it's easier, it's there if you need it.

MR. D'ALEMBERTE: Do you need a pointer for any reason?

THE WITNESS: I think that may be a good idea.

THE COURT: Stand back from it so everyone can see it.

MR. WEISS: Your Honor, with the Court's permission may I move around.

THE COURT: Surely. Do we have a start stopper?

A This is the area of the street in front of the clinic. This is activity that is normal when there are several hundred people outside the clinic.

You can hear the chanting of the pro-choice folks at this point. This is the driveway area that has been totally blocked by a steady stream of protestors. Cars can't get in and out at all.

Q This is on the –

A This is Dixie Way, eight a. m. on the sixth. Again, you see a blocking of the driveway here.

[p. 13] MR. WEISS: Your Honor, I want to interpose an objection. The term "blockage" would imply a blockage, she's testifying so that the record reflects a car being blocked. I didn't see a car.

I move that testimony be striken [sic]. It is not reflective of what is there. People are peaceably walking on the public right-of-way.

There is no evidence on that photograph of any car being denied ingress or egress of that premises.

Move that the testimony be striken [sic].

THE COURT: The number of people in the driveway area is certainly consistent with a blockage for any cars wanting to enter. There is just not any wanting to enter.

I don't think it's an unfair commentary for the number of people that – that customarily would constitute a blockage.

I'll grant you it's not put to the acid test where a vehicle seeks to enter.

MR. WEISS: And, further the identify [sic] of the persons who are in that sidewalk, who are the persons that are on the sidewalk? Do they represent the pro-aborts or do they represent [p. 14] the pro-lifers.

I think that's very relevant who each person is, which organizations are they? I don't think any of my clients were there. If they are there, I would appreciate her pointing to them.

MR. D'ALEMBERTE: That is all appropriate for cross-examination. I'll try to accommodate counsel as we go through some of this. I don't know what's on his mind.

The consept [sic] of cross-examination is fairly well accepted in common law to get at those points.

THE COURT: Yeah. If you would, I'll give you, of course, the opportunity for cross-examination.

MR. WEISS: It's going to be an awkward situation because it means we'll have to wait an hour to the end of it.

MR. D'ALEMBERTE: We'll try to help counsel.

THE COURT: The Court may have to go back and review certain portions of it.

MR. D'ALEMBERTE: We've got numbers on there, date and time numbers. If counsel would note the date and time number we could cue it up [p. 15] to the place where we want to cross-examine. If we may proceed.

THE COURT: Yes. Please?

A Here's a car trying to enter the area that was previously seen as being blocked in the driveway. We've got the one car forced to stop in the street while the police clear an area for the car to come in.

MR. WEISS: These maybe pro-choice people. We've seen no police in the area of the video. She's mentioning things that are not included in this photograph.

We have no certain identification there is a police officer or not there to clear that driveway. They may have voluntarily moved. She is testifying outside of the scope of this video evidence.

THE COURT: You are going to have to establish that there is a police officer there, if you are going to comment there is one that cleared the way.

It's a difficult type of presentation for me to identify the people there. Can you do that or not.

THE WITNESS: I can, in fact, in the [p. 16] previous portion there was an officer standing in the driveway area. If we slow this piece we will be able to pick him out.

Q There were police officers there? Set the scene?

A All day long.

THE COURT: Let's go back to the earlier footage where you saw the police officer or evidence –

MR. WEISS: You are blocking my view.

THE WITNESS: I'm sorry?

A The police officer, let's get back to that little piece again. Let me get ready.

This is – You are right. I cannot find you a police officer right there. I can –

MR. WEISS: I move it be stricken?

A I can previous –

THE COURT: All right. The motion to strike is granted. Go ahead please.

A This is a continuation of the same pattern. You see people crossing the street pretty constantly. This is U. S. One.

This is a potato stuck in the tailpipe of a car in the parking area in the lot across the street from the clinic. That was documented vandalism or [p. 17] concern for the car.

We're on 8:27 a.m. here. This is 9:22 a. m. This is protestors who's raising a white board with the name of a significant other male person who brought in a woman to the facility.

MR. WEISS: Your Honor, I'm going to object. The document does not show what you see before you. She is testifying to what's reflected on that tape. You can't see a name of any significant other. I would ask for what the video reflects, not her own testimony.

MR. D'ALEMBERTE: Your Honor, I respectfully submit she's alluded to what she saw at that scene at the time the video was done.

THE COURT: She has not given a predicate to know whereof she speaks. In other words, how does she know whoever the name on there is a significant other, to use her word. And, it's –

MR. WEISS: I understand the point.

THE COURT: It's without predicate.

Q Just to stop in this scene we just saw, would you describe in your own words about what you saw at that time?

A The woman who held the white board stood on [p. 18] a stepladder, a six, eight foot stepladder out on the sidewalk area. On the white board the name of a man who brought a patient to the clinic. I spoke with the man in the waiting room. I verified it was, in fact, his name. I saw this man's name on the white board.

If you are close enough to the video, and we could freeze frame, you can see a man's name on the white board.

MR. WEISS: Your Honor, that's hearsay. She talked to that man is absolutely –

THE COURT: That's not hearsay. She has direct evidence of that.

MR. WEISS: Who is the significant other? What's his name? I think we're entitled to that here.

MR. D'ALEMBERTE: You can see it on the videotape if you keep watching, counsel.

MR. WEISS: Aren't we entitled to that, to know what the name of the person supposedly having a –

THE COURT: It's represented to be on the poster.

MR. WEISS: I can't see it.

MR. D'ALEMBERTE: If counsel would let it go [p. 19] forward, I think you will be able to see. Your Honor, frankly all this is available through cross-examination.

MS. PATRICK: Your Honor, we would request without seeing the video through three times with cross-examination, could you we request Ms. Arick, since she saw the crowds, that she give an eye witness account of her observations separate from the video that's been taken. Could she describe as she goes where she was in the scenes just for clarification.

THE COURT: If you would. They are entitled to points of observations.

THE WITNESS: Okay.

Q Just see if we can do it that way so we can see if the point of view was significantly different from the camera's view. Please stop and identify where you were if there was any significant difference from where the camera angle is?

THE COURT: I believe it was on top of a vehicle, standing on top of a van looking over a fence. I doubt that Ms. Arick was ever in a similar position to the camera itself.

Q Were you able to see all the same scenes as the video saw?

[p. 20] A Yes.

Q Were you able to see the scenes that were shown on the video thus far?

A Yes.

Q Are you near the camera or some distance from the camera and if so, it in what direction?

THE COURT: Do we have that map? Would that be helpful.

MR. D'ALEMBERTE: Plaintiffs' Exhibit A. May we use it to point to for the purpose of my questions?

A The van was parked here in the first parking spot in the parking area here.

Q You are indicating just to the east of the entrance to the large parking lot?

THE COURT: Southeast corner of the large parking lot?

A The demonstrators throughout the day were generally across the front of the area either walking in the street, down the sidewalk area. I was monitoring their activities at my side. I was in the driveway area or I was in the staff parking area here where I had good visibility in the garden area where seeing over the fence is not difficult at all. Much of my day was spent in this specific proximity.

[p. 21] Q And, the van again, if you would point to where the van is?

A And, the van is here.

Q Was the camera always here or was the camera also moving some?

A That footage was all from the van. It was not always here on top. He maintained a position in this area.

Q Okay?

MR. CADLE: Your Honor, could I say Ms. Arick is giving factual information as an eye witness. She has previously testified that she was in the inside of the building talking to a significant other of someone else. She could not have been in two places. She could not have viewed the scene on the camera and be inside the building and talking to a significant other.

THE COURT: Okay. That is a form of argument and you know it. That is something that truly needs to be developed by cross-examination as to whether or not

both times are the same time. You are assuming they are and I can't make that assumption.

MR. D'ALEMBERTE: May we continue.

THE COURT: Yes, sir?

[p. 22] A This reflects the white board. You can clearly read a man's name. We have pro-choice people trying to block that board and making noise to try to drown out the protestors as well.

You can see traffic moving very slowly through the street because it's very congested.

Here the protestors are across the street in the area that is fairly quiet. Again you can see a steady stream of protestors with the pro-choice line right across the line to keep them from entering the property.

This is an example of people screaming. This is at 9:23 a.m. This is at 9:24. It shows the protestors standing on a stepladder behind an eight foot stockade fence on the north perimeter of the property.

Again, 9:24 a.m. This is the area where the white board was held. It was over here with a man's name clearly seen.

This is a car entering Dixie Way, forced to stop here. This is a police officer stopping the car and then coming up to instruct the crowd. We have protestors approaching the car, walking with it as it gained entrance into the property.

Again, the police officer here, two police, [p. 23] three. This is U. S. One. This is so you can see the congestion and confusion that can occur.

Police officer here in the driveway area, near the driveway. A second police officer, a police car parked up the street here many times accompanied with officers.

Again, protestors across the street as well marching in a double line here or circles, two lines.

THE COURT: This circle that's moving are they pro-choice or pro-life.

THE WITNESS: The circle that is moving are demonstrators.

THE COURT: Stop that please.

THE WITNESS: I'm sorry.

THE COURT: If you could identify those people that were moving.

THE WITNESS: They are demonstrators. They are pro-life people, sir.

THE COURT: All right.

THE WITNESS: This is Randall Terry.

THE COURT: Who is Randall Terry?

THE WITNESS: Randall Terry is the founder of operation Rescue and from what I know about him is still associated with that group.

Q Point him out.

[p. 24] A He's right here in brown.

MR. D'ALEMBERTE: And, he's a named defendant in this cause, Your Honor, not present in the courtroom.

A See the news media here. There is a lot of confusion. This is actually in the driveway area.

Q Who is that please?

A Here, this is a man whose last name is Slovanick (phonetic). I don't know his first name. He was identified by some other person who knew him for me.

Q This is Randall Terry again?

A Yes. But, look at them.

Q Right here is Randall Terry?

A Again, this is occurring in the driveway. This is just a mass congestion in the driveway.

Q This is Mr. Terry?

A This is Mr. Terry here. This is approximately 10:12 a.m. So, this all has been going on since 8:15 which is our first clip.

Q This shows the two groups closing in together?

A Yes. These two groups are pro-choice folks who are primarily in this area on the property of the Aware Woman facility.

[p. 25] Much of this is media and pro-life people all mixed together. It's very difficult to tell who is who. When you've got these kinds of large crowds –

Q Again, Randall Terry here at center?

A This is across in the vacant lot across the street. This is a child playing in a tree and people walking again on the south side of Dixie Way. This is Bruce Cadle.

THE COURT: What time is this?

THE WITNESS: This is 10:16 a.m. This is a pro-choice people who with music is trying to drown out some of the noise from the protestors.

This is the house across the street. It's currently vacant. There are no trespassing signs posted. That is one before 10:12 a.m.

At 10:20 this is another vehicle trying to gain entrance into the lot. You see the vehicle has to stop out here. The police officer here is holding the crowd back to help this vehicle get through. She is able to get in very slowly.

The pro-choice people again immediately line up in the driveway to prevent anyone from entering.

[p. 26] MR. CADLE: Pro-choice people did you say?

THE WITNESS: Yes.

A This is 11:07. You'll see a car trying to exit the parking lot, having to move very slowly. People are getting out of the way. The pro-choice people line up in a single line. Here the pro-life demonstrators again back into they [sic] driveway area.

This is 12:4 1 p.m. in the driveway. She's been identified as Michelle King with a local newspaper. That's all I know about her.

This woman has been identified as Jan with a local newspaper. I don't know the last name. Again, 12:41 p.m.

THE COURT: Stop that, if you will.

Q In the background do you see a vacant lot behind the person who's screaming?

A I think what you see behind the person who is screaming is the empty house. But, we have to turn it again for me to look. It either could be the angle. I believe it's the empty house.

Q This is right-of-way on the other side of the street?

A There certainly – There is a public access area on both sides of the street.

Q Can this person who is shouting be heard [p. 27] from across the street?

A Clearly.

MR. CADLE: Your Honor, I move to strike it as irrelevant and immaterial. This goes to Motion Number Two to the modify your decree. Did we violate it is the issue. Whether you could have heard someone across the street is irrelevant and I just –

MR. D'ALEMBERTE: I submit, Your Honor, rather than standing in a driveway which does involve ingress or egress covered by the Court order, you can communicate from across the street without blocking ingress and egress resolving the point of procedure without getting to Motion Number Two.

MR. WEISS: Judge, the only line, the people that she's pointed out are pro-choice, pro-choicers stopping people from entering that. She said the lines immediately formed.

THE WITNESS: They did not stop a single car. A single car has not been denied access.

THE COURT: That's argumentative, counsel. If you will save your argument to the appropriate time.

Q The pending question is, can you identify [p. 28] the space behind –

A This is the house. This is not the empty house. This empty house would be here to the left on the screen.

Q 12 :42 p.m.

A That's the empty house here.

Q Is this still in the driveway?

A This is still standing in the driveway. The time marker is 12:42 p.m. I have a student I. D.

Q Here, what do you need to have?

A You need an F. I. D. Did this relate here to why the girl that arrived in the white car had to be put in the car by her boyfriend?

Q Talk about malpractice insurance here?

A Talk abortion, some crawl. Some have to drive themselves. You can see that these people are across the entire driveway area where they're standing.

Q The people are identified as who?

A The people are protestors. They are not the pro-choice people. "Death of children and Ted Wendell, you are a murderer" on the tape. "Shame on you, Ted Wendell, shame on you". This is 12:44 p.m.

Q Are these IMPACT Team?

[p. 29] A We believe these two are. They have been identified as such in the newspaper. "Woman, woman, woman how many of you women have abortions? Mothers of dead babies. How many dead babies? You are plotting the death of your children. Nancy, Nancy repent. She's leading you astray. Ted and Patricia Wendell, they're leading you all astray. Turn away now for today is the day of salvation. We want to see the baby killers in jail. Baby killers in jail. Wherever they are, there will be no rest or no peace for the wicked. There is no peace and no rest for the wicked. All you people are wicked. All of you are wicked. There is no peace or no rest."

This is the video camera of one of the protestors again to show videos were everywhere.

"I pray that judgment comes. This is your worst nightmare because God, you cannot hide from God. He knows where you are."

This is at the residence of Pam Doyle, 9:46 a.m. on the thirteenth of March. This is the process being held out along the highway which is U. S. A-One-A, might be a Florida highway.

There were approximately seven to eight people in this demonstration. You can see the area around here is primarily condominiums. It is a [p. 30] residential area.

Q Fairly windy day?

A Very windy day. This is Keith Tucci.

Q Who is he?

A He is the executive director of Operation Rescue National. This is Bruce Cadle. This protest went on for something over an hour altogether. This is across A-One-A. You'll see shortly where we take a shot in front of the Wendell's residence.

Q Is this IMPACT Team?

A There are IMPACT Team members. This woman was just identified is as an IMPACT Team member.

MR. WEISS: Your Honor, proper foundation. She knows what's the foundation for her saying. She knows all this information.

MR. D'ALEMBERTE: I note that IMPACT people are not objecting. This does not go against Mr. Weiss' clients. I'm surprised to hear him make this objection to this.

MR. WEISS: Your Honor, to my knowledge, no people connected with the IMPACT Team are present in the courtroom nor are any of them named as defendants on this court order.

MR. D'ALEMBERTE: Your Honor, I will [p. 31] cross-examine Mr. Cadle on that in a bit.

THE COURT: We11, she has to give a basis for her knowledge. If you can develop that fine, otherwise.

MR. D'ALEMBERTE: I'll attempt to develop it through Mr. Cadle. Just to make sure we've exhausted this witness' knowledge of this.

Q What is your knowledge of the identify [sic] of IMPACT Team members?

A It primarily comes from newspapers where interviews and photos have been done and put in local papers where a number of these people have been identified. Additionally there is – they tend to come to the clinic as a group. And, many of these people are seen continuously with the group also with Keith Tucci who I believe is heading IMPACT training.

Q All right.

THE COURT: Keith who?

THE WITNESS: Tucci, T-u-c-c-i.

THE COURT: Okay.

Q Go forward.

A Same place. This is 9:58 a.m. on the thirteenth of March in front of the Wendell's condominium.

Q What community is this in?

[p. 32] A This is Melbourne Beach, the city of Melbourne Beach, out of Melbourne Beach.

Q Is this South Melbourne Beach? I'm sorry. I thought you said stop.

A Okay. This IMPACT Team member, she's been named as Jessica. We don't know much else. She's been in the newspaper.

Q Is this, the rest of this is pretty much the same?

A It shows the condominium. That was Chet Gallagher (phonetic), one of the IMPACT Team trainers. This is the woman who was screaming earlier.

MR. WEISS: Your Honor, if I may interpose another objection at this point. Your order is one sided. Your order in no way addresses peaceful protests in front of the Wendell's residence.

I don't see the relevance or materiality in front of their residence. It's not part of your order. You didn't say they couldn't march in front of the Wendell's residence.

I will take the position that sanctions may not be applied for something that happened outside his residence. The clinic is the [p. 33] subject of the proceedings here today.

THE COURT: That's argument.

Q Go ahead.

A You need to see the condominium. That is one of the days. Actually there is more.

Q Okay. Let's fast forward through this part?

A This is back at the clinic. This is eleven a.m. on February twentieth. This is the woman as Jessica in the papers.

Q This is February 20, 1993?

A Yes.

Q This is after the IMPACT training began?

A About a month later, yes. She's standing on a stepladder here. The proximity of this noise right here is directed at a part of the building where the recovery area and the surgical suites are.

"I am your son. Don't kill me mom. Help me, daddy, please."

This is 11:19 on the twentieth of February. Again, this shows you the protestors in the driveway. This is a day to give you a full view where there are less people than the previous marches.

Again, people are across the street. This [p. 34] is the driveway area. Again, this is one of the, we believe, the IMPACT Team. She's –

Q Going back in time now.

A This is the twentieth of February. This is the last clip. This is about a month after the IMPACT training began. It's just the way it got edited. I apologize.

Q Is this 11:31 a.m. again in the driveway?

A The singing is pro-choice people on the property. This screaming is directed at a portion of the building where many times the men who come with the women stand.

This is 11:32 a.m. on the same morning. This dark haired woman is screaming "You killed a child."

This is Sheila Eshlenberg here receiving a ticket for obstructing the driveway. This is 11:37 a.m. on the twentieth of February. This car is leaving the clinic.

11:43 a.m. on the twentieth. This is the intersection of A-One-A and U. S. One. You see people following the car out on the street, crowding around the car as it tries to get into the clinic. 11:44 a.m. Again standing in the driveway.

Q Are those people called sidewalk [p. 35] counselors?

A Yes. You see no pro-choice people standing in the driveway in the area. These folks are in the driveway without the pro-choice people being there.

This is again someone on the stepladder, 11:46 a.m.

Q What area is that?

A This is standing near a portion of the building that is the surgical suite. And, that's the end of the tape.

Q Thank you. You can take your seat. We'll leave it there?

Now, what has been your experience with demonstrations at women's health clinics since 1982? Just generally what has been your experience. You want to talk about your experiences with protesting since 1982?

Since 1982 have you known protests at clinics since 1982 when you came to Florida?

MR. WEISS: Judge, the relevance and materiality to what happen ten years ago prior to entry of the judgment of your decree is irrelevant. I don't possibly see the relevance.

MR. D'ALEMBERTE: I'm just trying to present situations with a traditional peaceful protest, [p. 36] Your Honor.

THE COURT: Yeah. Overruled.

Q Share your experience?

A I have primarily experienced with anti-choice protests in the Florida area since approximately 1982. And, I've seen protests that include hundreds of people.

They have been generally peaceful. They have been less personally threatening than they are today.

Even some of the blockades that I witnessed in different parts of the state where people trespass on property and physically remain in spite of the police asking them to leave or be arrested. Many of those blockades that I've been through I would consider fairly peaceful protests.

Q Now, focusing on activities since the injunctive order was entered in this case, actually the second injunctive order was entered in this case on September 30, 1992. Focusing on that period of time since then, would you say these demonstrations are they somewhat harsher in character? Are they different?

A Well, in fact, I've been out away at women's facilities very regularly since October of 1992 and I've seen a difference in the quality of [p. 37] demonstrations beginning about the first of 1993 and in particular clips on this video where the demonstrators, the protestors have gone to very directly and personally threatening the staff. There is a feeling of –

MR. WEISS: I'm move [sic] to strike that from the record. It does not in any way or anywhere ever reflect a strike or threat to strike if that video reflected that. I just move to strike that. It is not indicative of what's in the record.

MR. D'ALEMBERTE: Not the videotape. I'm going to show that she's been threatened. I'm going to examine that. I'm setting up the predicate.

THE COURT: Now, her testimony is not necessarily confined to what she saw in the video. She can

testify as to events gathered from her own personal observation. Counsel is not clear at this point as to the basis of the observations.

Q Now, I think your words are that they are now personally directed. What do you mean by the comments "now being personally directed?"

MR. WEISS: I just want to make sure on the [p. 38] date on this is. I'd like to know who the parties to cover–

MR. D'ALEMBERTE: The dates are since January, 1993.

MR. WEISS: Where were they? Where is –

MR. D'ALEMBERTE: The testimony is – We'll get quite specific, counsel.

Q Within that time frame, the Court would expect your answers to be within that time frame. Is that understood?

A Yes, sir.

Q All right.

A On February twentieth there were two people on the pro-life side of this demonstration appearing at the Aware Woman Center for Choice who made what I felt to be personal threats toward me.

One came from a man who was standing on a stepladder or something to get him above the eight foot stockade fence on the north end of the property.

And, in his, what I called his preaching voice from the back fence, he became very agitated, very angry, was

speaking very angrily to anyone who was monitoring the activities on that back fence on the pro-choice side.

[p. 39] I walked into that area. From the top of the fence he looked directly down at me and screamed my name and screamed, "Ruth, Ruth, I pray that God strikes you dead. In the name of Jesus, I pray Jesus strikes you dead. I pray for your death in the name of Jesus."

I don't know his name, but I can identify him from photographs and from the videotape. I don't know what his name is.

A second person that you saw on the videotape on February twentieth who the newspapers have identified as Michelle King who was standing in driveway making the comments to Ted Wendell, screaming them across the driveway.

She again made the same comments to me where she pointed at me and she screamed "Ruth, I pray God strikes you dead now."

These to me are of a wholly different caliber than the protests that I have seen in the previous years and in the previous months even at the Aware Woman facility. The tone, the intensity, and the feeling of personal threat has increased gradually.

Q Now, were you at the clinic on or about March tenth of this year?

[p. 40] A Yes, I was.

Q Were you there following the news that there had been a murder of a doctor in Pensacola?

A Yes, I was.

Q How did that day –

THE COURT: I'm sorry. You recited a date?

MR. D'ALEMBERTE: It was March tenth, Your Honor. On about March tenth.

THE WITNESS: It was.

Q Was it March tenth or March eleventh?

A It was March tenth.

Q And, how did that news reach you?

A I had been at a luncheon meeting and heard on radio that Dr. David Gunn had been shot in Pensacola.

And, I went through my luncheon meeting and returned to the clinic at approximately one p.m. And, there where in the neighborhood of six to ten protestors in the driveway.

And, when I came into the clinic the staff was talking about the shooting. We heard on the news and on the radio almost simultaneously television and radio that he had died in surgery.

And, from the office that I was working in inside the building I heard cheering, not cheering, I heard –

[p. 41] MR. WEISS: Your Honor, I'm going to interpose an objection. How does she possibly know what the motivations for the cheers that were taking place outside the clinic. The cheering could have been as a result of some events not attributable to Dr. Gunn. That nexus hasn't been demonstrated what these people were cheering for.

MR. D'ALEMBERTE: I can see it's circumstantial, but it is circumstantial. That's not the entirety of her testimony.

THE COURT: I believe he's relating to an item parolly announced on the radio and T V.

MR. WEISS: But, she hasn't laid a foundation the folks outside even knew about it or they heard it or they had a radio. A cheer could have gone up for a football game at the same time. Does that mean Dr. Gunn's death? No one knows.

THE COURT: You may cross-examine. But, there is an inference to be drawn from the testimony as it's being related. I think it's proper admissible testimony.

Q Go ahead.

A What I heard from inside with the door [p. 42] closed to the outside was "Praise the Lord. Praise the Lord, a baby killer is dead."

I had two staff people outside in the parking lot at the time who were able to confirm that for me.

Q Okay.

MR. WEISS: Your Honor, I would move to strike. It's attributable to what someone on her staff relayed to her. So, that certainly constitutes hearsay.

THE COURT: That isn't what she said, counsel. I don't want you to misconstrue.

MR. WEISS: She said someone came in and told her that.

THE COURT: She said she heard it through the door and she said people came in and confirmed that for her.

MR. WEISS: I apologize. I didn't hear that. You heard it. I didn't here it. I'm sure the record will reflect what you heard, not what I thought I had heard.

THE COURT: Thank you.

Q Now, was – Is the Defendant Pat Mahoney identified in this videotape we saw?

A He was in the videotape on March the [p. 43] thirteenth at the Wendell's condominium.

THE COURT: Which person were you referring to?

MR. D'ALEMBERTE: I'm sorry, Your Honor, a defendant who's not been mentioned before, Pat Mahoney, also not present here.

THE COURT: Having been given notice?

MR. D'ALEMBERTE: I'm sorry, Your Honor?

THE COURT: Having been given notice of these proceedings.

MR. D'ALEMBERTE: These events are subsequent to the injunction order, Your Honor.

THE COURT: I understand.

MR. D'ALEMBERTE: He was given notice, I'm sure. Yes, sir. Yes, sir.

Your Honor, on sequence I think that he was served in the original proceeding, default was taken, but we

provided him with expedited mail notice to all of the people who have been defaulted and not represented by counsel.

Q If I may briefly ask you, you received notice of – How have you received notice of the tactics of the demonstrations against the clinic?

A There have been a variety of ways. The newspapers have interviewed many of these people. [p. 44] We've read those stories. We have received fliers about their training with photographs in by – These are the trainers who are going to be involved. We have seen pamphlets and brochures that come from the Friday evening rallies that have been held in the Melbourne area.

Q All right. If I may, let me show you, first of all, a brochure marked Plaintiffs' Exhibit P and ask you if that is one of the documents which came to you?

A Yes. In fact, I actually just saw this a few days ago and received it from some folks in the Orlando area.

Q Okay. Do you know when that was collected?

MR. WEISS: Your Honor, this is something received from some folks in the Orlando area. It has no bearing on your jurisdiction.

THE COURT: I don't know until he gets finished laying the predicate if you would give him the opportunity?

A The note that's written in the corner says that it came from First Wesleyan on March the sixth which is where Randell Terry was speaking.

THE COURT: Where is that church?

THE WITNESS: I'm sorry. Here in the [p. 45] Orlando, over on Chickasaw Trail.

THE COURT: Does it have any – Does it show the publisher of it?

THE WITNESS: Yes. It's published by Rescue America and it lists the Reverend Ed Martin as executive director.

THE COURT: For what purpose are you offering it?

MR. D'ALEMBERTE: Your Honor, to show that Mr. Martin was engaged in and promoting the activity forbidden by the Court. And, as I read the third paragraph of the injunctive order, you may not do that.

And, the fact that Mr. Martin goes to Orlando to do, rather than in this jurisdiction, still we're not dealing with this. This doesn't require space travel to get from Orlando to Brevard County. And, if the activity is activity which promotes disobedience to the Court's order and urges people to violate the law as I think this pamphlet does, then we think it's in violation of paragraph three of the Court's injunction.

MR. WEISS: Judge, the date of that document is November, 1990. The publicaton [sic] date is some [p. 46] two years prior to the entry of your injunction. It was allegedly distributed to a party who has not beer named at Wesleyan Church in Orange County on March the twenty-fourth. We don't know who the party was.

THE COURT: March twenty-fourth of which year?

MR. WEISS: I have no idea. The document doesn't say. There is a hearsay notation written in the corner says three twenty-four. March sixth.

MR. D'ALEMBERTE: The sixth of March, I think is the date that's written on it.

THE COURT: Does it show it having been printed two years previously.

MR. D'ALEMBERTE: No, Your Honor, I think counsel and I would agree that the only date mentioned in here is November 1990. But, it refers to November 1990 as being a past event. That is, this could have been printed after November 1990 not on 1990.

I don't think counsel meant to imply it was printed in 1990. We don't know when it was printed. The only thing we know is when the document came to the center. And, it came to [p. 47] the center in March of 1993.

Now, perhaps through Mr. Martin's testimony or otherwise we may find that this pamphlet actually hasn't been disseminated in any way since the injunctive order.

At this point all we can do is collect the information as it comes to us, telling when it came to us. And, it came to us in March of 1993.

It is not something that came to us back in 1990. We just received the document. And, we recognize this is only circumstantial. We can't tell you Mr. Martin was there passing out this pamphlet. He may not have been.

But, at least it has some bearing because the pamphlet itself seems to call on people to violate the law. And, since we received it in March of 1993 you can understand why we're nervous about it.

MR. WEISS: It's received by pro-abortion advocates delivered to the Aware Woman Clinic. That's who delivered it to the Aware Woman Clinic.

We don't know who the party was. We don't know who they received it from.

[p. 48] If they want to bring in to the court the person who received it to testify who they got it from, where they got it from based on wild hearsay, they're saying it was obtained at Wesleyan Church on March sixth. The year is unidentified in Orange County.

The relevance of that to seek sanctions against Ed Martin here today totally eludes me.

THE COURT: Well, counsel, at this point it's not admissible. There hasn't been sufficient nexus established, if you will.

MR. D'ALEMBERTE: All right, Your Honor. And, Your Honor, let me say that part of the difficulty is that the witness who did collect it was not excluded under the rule. We did not anticipate. He's been in the courtroom. So that's my evidentiary problem. And, I think at some point I need to ask for an exception to the rule.

But, at this point we'll go forward, Your Honor.

THE COURT: All right.

Q Now, you also mentioned that you had received information from magazines. This is a magazine, which actually, Your Honor, I only marked, [p. 49] and I've shown all this to opposing counsel to Mr. Cadle.

I have one page in this magazine marked as Plaintiffs' Exhibit V but with permission of the Court, I would like to show the witness the magazine from which it was taken and have her identify that?

A In fact, this magazine was received at the owners' home and is the Life Advocate which is a pro-life magazine.

THE COURT: What is the date of that?

THE WITNESS: It's dated March, 1993.

THE COURT: And, the letter of the exhibit is V as in Victor.

Q On page thirty of that magazine is there an article which relates to Florida?

A It does. It entitled – titled Pro-Life IMPACT Team Training in Florida.

Q And, does that article quote Mr. Cadle?

A It does.

Q Mr. Tucci?

A It does.

Q All right.

A And, it shows a photograph of activities at one of the protests outside of the clinic.

Q The clinic in Melbourne?

[p. 50] A. In Melbourne, yes. I'm sorry.

THE COURT: The title of the magazine?

THE WITNESS: It's called Life Advocate.

THE COURT: Thank you.

Q And, the title of the article on page thirty?

A It's Pro-Life IMPACT Team Train in Florida.

MR. D'ALEMBERTE: Your Honor, I would like to offer this one page photocopy.

MR. CADLE: Your Honor, I would object that this is hearsay evidence since my name has been directly tied to this and I have never been interviewed for an article in this magazine. I believe this is totally hearsay. We've not been told who the author of this article is.

MR. D'ALEMBERTE: There is no author shown, Your Honor.

MR. CADLE: No author shown but I'm supposedly quoted in it.

THE COURT: Read the quotation attributed to Mr. Cadle, please.

THE WITNESS: It says, "Christians across American need to merely stand at the very place of death and the gates of hell. Unfortunately only one percent of the church is out today. [p. 51] Christians need to do unto other as others do unto them."

And, it goes on to say "Cadle remarked that if he were being led away to his death, he would hope that Christians would intervene to save his life."

Q Does the article identify Mr. Cadle as one of the leaders of the IMPACT training?

A Let's see. It seems to me it says, "Bruce Cadle, Operation Rescue Southeastern Director and coordinator of the IMPACT Team stated pro-lifers should read the Bible, believing that the power of prayer and the word of God is a powerful weapon."

MR. CADLE: I would again like to say this is hearsay. There is no author to this article. We have no one here representing this publication or representing himself as having authored it.

MR. D'ALEMBERTE: Your Honor, this is offered for the limited purpose of just showing information that's come to the clinic.

Obviously Mr. Cadle didn't make these remarks. These remarks were not made under oath. He can say under oath he did not make these remarks. These are not his sentiments.

[p. 52] At this point it is information from an appropriate source in a pro-life magazine which included Mr. Cadle in the leadership of the IMPACT Team. And, that's just all.

It doesn't end the case. It merely demonstrates information that's been available in a magazine friendly to from Mr. Cadle's cause.

THE COURT: Well, the evidence code I think informs us concerning reputation is an exception to the hearsay rule. But –

MR. D'ALEMBERTE: Your Honor, let me make a suggestion. Why don't I just mark this magazine as an exhibit for identification and we'll confer with Mr. Cadle and if he's going to testify, we'll cross-examine. If he's not, we'll call him as an adverse witness in just a moment. We'll not offer this at this time.

THE COURT: All right. Thank you.

Q Okay. I'm sorry. What was that number again?

A V.

Q Now, additionally you received copies of letters?

A Yes, we have.

[p. 53] Q. Let me show you some and ask you if you can identify approximately when you received copies of these letters and if you will identify in each case the author of the letter, first of all a letter marked – Please give me the identification number on that.

A It looks like JJ.

MR. D'ALEMBERTE: JJ, Your Honor.

Q And, when did you receive that, first of all?

A This letter is dated April 13, 1992. And, I cannot tell you precisely when it was received in the clinic. Generally when these types of letters or [sic] returned to the clinic by the people who received them, it's within several weeks of their having gotten it at their home.

Q Who is the author of that letter?

A This is authored by Meridth Raney.

Q Okay. And, now let me show you Plaintiffs' Exhibit RR and ask you can if you can identify that?

A This is a letter that is signed by Bruce Cadle, Director of Operation Goliath. And, there is not a date on this letter. It discusses, in one paragraph it says, "Well, right now in April 1992," and it goes on. So, I can assume from that this [p. 54] letter was authored in about that time.

MR. WEISS: Your Honor, it predates the entry of your order. I think it's irrelevant and immaterial and it certainly shouldn't be introduced. You know, it was in April.

THE COURT: It hasn't been offered in.

MR. D'ALEMBERTE: Your Honor, I would offer it now. And, it does, indeed, predate the September 30, 1992 order. It does not, however, predate the injunctive order in this case.

Your Honor entered an injunctive order, I believe, in October. The twenty-fifth is the date that sticks in my mind, of 1991. And, that was a temporary injunction which basically had the same language as the final injunction.

This is a letter which was written after the temporary injunction was entered. So, the idea of somehow limiting the evidence after September 30 of 1992, it seems to me is not correct.

If the parties have been violating the injunctive orders of this court and we've just learned of it, we're entitled to put on evidence relating to violations of injunctive orders.

MR. D'ALEMBERTE: I'm sorry I can't get the [p. 55] date.

THE COURT: Your dates, it is going to be right.

THE COURT: I know the temporary injunction was entered by the Court on the twenty-fifth of October of 1991. It's 4:20 p.m.

It addresses itself to a trespassing on instead of blocking and obstructing ingress at a facility where abortions are performed or family planning services are provided in Brevard and Seminole counties and surrounding counties.

MR. WEISS: Your Honor, it was generally modified to focus on, it narrowed the jurisdiction of this county, to two counties, Seminole and Brevard.

MR. D'ALEMBERTE: Your Honor, I think counsel will probably stipulate it has not been since that time been any abandonment of the injunctive orders that have been in place in this case since October of 1991 forward.

THE COURT: All right.

MR. CADLE: Your Honor, my objection is the admission of these articles is because the motion before the Court today is, as I understand it, is the emergency motion that [p. 56] relates to the permanent injunction action since September thirtieth.

The exact wording on line sixteen, page two, paragraph three in its permanent injunction, paragraph four since the permanent injunction was entered there have been violations. The punishment requested the sanctions, requested Your Honor deal specifically with asking the Court to find that the defendants did individually and collectively violate the terms of the Court's permanent injunction. That injunction since September thirtieth of 1992.

Therefore, my understanding of the motion that is actually before the Court today is that it deals with the permanent injunction. The actions claimed are actions after September thirthieth [sic] of 1992.

I would rule that these items from April of 1991, I believe, or 1992 have absolutely no relevance in this case.

THE COURT: It may have, if you dispute your relationship with the organizations that you tender in your letter of April ninety-two, it is somewhat some proof of that relationship.

[p. 57] But, I don't know what your position is yet because I haven't heard it. I'll have to reserve on it, counsel.

MR. D'ALEMBERTE: And, this letter does say Bruce Cadle comma Director Operation Goliath.

THE COURT: I understand. What I'm saying is if he disputes that then it becomes admissible.

MR. D'ALEMBERTE: Your Honor, may I offer this at this time?

THE COURT: No. I'll have to reserve.

MR. D'ALEMBERTE: All right, sir.

Q Let me now, if I may show you Exhibit, Plaintiffs' Exhibit W for Identification, a leaflet and ask you if you can identify when that came to the attention of the clinic?

A This was brought to the clinic by a person who attended one of the Friday evening rallies that have been sponsored and put together by the IMPACT program of Operation Rescue National.

Q What's the date on that?

MR. WEISS: Your Honor, at this time we've got to have a person. We've got to. This is the wildest form of hearsay. Somebody goes – where is this person who got it? He got it from [p. 58] where? Where was it.

This witness is not competent to testify to any of that.

MR. D'ALEMBERTE: All we can show, Your Honor, is literature in circulation that bears the organization's name. They're organizations of the defendants. And, we think we're entitled to show that this information is being published that's in the organization's name.

If that organization denies it's their material, then we obviously would love to have more specifics to show that denial is not –

THE COURT: For that, sustain the objection. The fact it is relayed by this witness. Somebody else got it from this particular place within the jurisdiction of this court, I gather.

MR. D'ALEMBERTE: Yes, sir.

THE COURT: So, it is hearsay.

MR. D'ALEMBERTE: Your Honor, may I then just to conclude just to make sure we've got it on the record the identification of earlier material that's been received and all of this, I think, would fit within same category of objection at least to have an identification on [p. 59] the record? May I?

THE COURT: Do you intend to inquire of other witnesses?

MR. D'ALEMBERTE: Yes, sir. Just that I wanted to establish the chain that it actually reached the clinic.

THE COURT: All right.

Q Let me show you Plaintiffs' Exhibit X and ask you if you can identify that as material that was received at the clinic and if so approximately the time of when it was received.

A Yes. This flier about the IMPACT Team training was received at the Aware Woman Clinic sometime in December.

THE COURT: The exhibit designation of the flier?

THE WITNESS: X.

THE COURT: It's a pamphlet? A leaflet?

THE WITNESS: It's a letter with a registration blank to come to the training. It also includes photographs and bios [sic] of some of the trainers including Bruce Cadle and Keith Tucci and others.

It has a housing application for IMPACT Team members and a copy of the brochure. It's a [p. 60] trifold

brochure that was circulated asking for people to join IMPACT.

THE COURT: This is dated when please?

THE WITNESS: There is not a date on this communication at all. But, it appears to be –

Q The dates for the school, however, are they not in that material?

A The dates for the school are here.

Q And, for the Florida school?

A The Florida school is January eighteenth through April ninth.

Q This year?

A This year. I'm sorry. 1993. It also indicates the dates of the next IMPACT training in June of 1993.

And, lastly there is a page of a letter signed by Reverend Keith Tucci, the executive director of Operation Rescue National.

THE COURT: How did you come by it, please?

THE WITNESS: This was received at Aware Woman Clinic through the mail.

THE COURT: Go ahead, counsel.

Q I'm still just identifying. I next give you Plaintiffs Exhibit AA, alpha, alpha, Your Honor, has the letterhead of Operation Rescue in bold, under [p. 61] that Florida IMPACT, and ask you if that document came to the clinic?

A This document did come to the clinic. It's dated February 16, 1993. It's a letter signed by both Keith Tucci,

the executive director of Operation Rescue National and Bruce Cadle the field director of Operation Rescue National.

And, attached to it is the Florida IMPACT News, Operation Rescue National. It appears to be a one page newsletter. The newsletter is dated February 1993 and it's volume one, issue one.

MR. D'ALEMBERTE: All right, Your Honor. If Mr. Cadle has no objection to that document, I would like to offer it into evidence. And, this is one entitled Operation Rescue with IMPACT identified on the document.

MR. CADLE: My objection, Your Honor, is that this document is, in fact, from an organization called Operation Recue [sic] National. The word "national" appearing across the top of the letterhead. The newsletter attached is also from Operation Rescue National, which is not a named defendant in this procedure.

My objection will be this is a document from a totally separate organization, not a [p. 62] named defendant called before the Court under this action.

MR. D'ALEMBERTE: And, has the signature, Your Honor, of Bruce Cadle, field director Operation Rescue National.

THE COURT: It's relevant to Mr. Cadle's activities. The court will receive it. Okay.

THE CLERK: It will be Plaintiffs' Number Four.

Q Now, if I may show you Plaintiffs' Exhibit CC, Charlie Charlie, Your Honor, for identification, and ask you if that document was received at the clinic?

A Yes, it was.

Q Do you know approximately when it was received?

A No, I don't. It indicates it's signed by Bruce Cadle. And, in the body of the letter it states, "I am currently serving as director of the Pro-Life Action Ministries, Director of Operation Goliath and board member of Sheparding Home Ministries. My activities basically involve overseeing a variety of pro-life activities, such as sidewalk counseling, picketing residences –

MR. WEISS: Your Honor, she is publishing a [p. 63] letter that hasn't been introduced into evidence.

MR. D'ALEMBERTE: I think that's correct, Your Honor. If I can just indicate that publication is for the purpose of identifying this.

THE WITNESS: Yes.

MR. D'ALEMBERTE: And, for no other purpose at this stage, counsel.

THE COURT: I've got to relate it to time, if it's possible.

MR. D'ALEMBERTE: We're going to have to get Mr. Cadle to respond to that I think, Your Honor. And, I'll just save that to when we put Mr. Cadle on.

MR. CADLE: Your Honor, in fact, I object to this document in that it predates even the beginning of

this Court's proceedings rather than the temporary restraining order or –

THE COURT: Again, I need that from the witness stand.

MR. D'ALEMBERTE: And, with that, Your Honor, just one moment. Okay. That's all I have, Your Honor.

THE COURT: We need a recess at this time. [p. 64] We've been at it about an hour and forty minutes. We'll be in recess about ten minutes.

(Whereupon, a brief recess was held, after which the following proceedings were had:)

WHEREUPON:

The following proceedings were had:

THE COURT: Counsel, my research during the recess indicates that Section 90.902 of the Evidence Code indicates that extrinsic evidence of authenticity as a condition precedent to admissibility is not required for among other things printed materials purporting to be newspapers or periodicals.

So, that maybe in part the – the Plaintiff has met his predicate for admissibility that magazine. It may still be a hearsay problem with it. But, authenticity of it is apparently something that need not be established.

Okay. You may inquire.

CROSS-EXAMINATION

BY MR. WEISS:

Q Ms. Arick, my name is Chris Weiss. I'm here as attorney for the Reverend Ed Martin, Judy Madsen, and Shirley Hobbs and the organization Rescue America.

[p. 65] In the videotape that you went through, on the days in question, no one was charged with trespassing on, sitting in, blocking or obstructing ingress into or egress from the facility; were they?

A I'm not sure if the ticket that was written is a form of arrest. I don't know how the police categorize that. But, there was no one taken away in a police car. No.

Q And, you said back years ago, eighty-two, when folks peaceably chained themselves to the front of the door of the clinic, you remember those events as being relatively peaceful? They would go limp and the police would come in. That's when they were blocking the acces [sic] to the clinic. You personally observed that; didn't you?

A I have seen that be relatively peaceful, yes.

Q You never saw a single person chain themselves to a door, block egress to the building, you know, in the classic way with bicycles or chains. You never saw that occur in any time from September 30, 1992 to present?

A Not on property, no.

Q Okay. Now, did you ever see the Reverend Ed Martin instruct anyone in your presence to [p. 66] trespass on or sit in or block or obstruct the ingress or egress to Aware Woman Clinic?

A No.

Q Did you ever here [sic] the Reverend EdMartin –

MR. D'ALEMBERTE: I' [sic] sorry to interrupt you, counsel. Perhaps we can shorten this. I'll stipulate she has no testimony on any violations on behalf of any of your three clients. And, I thought that would speed it somewhat.

MR. WEISS: It sure will. I'll sit down.

THE COURT: Thank you. He enumerated more than three.

MR. D'ALEMBERTE: Your Honor, let's recap this morning. I pointed out to the Court –

THE COURT: I need to understand what you mean by his three clients. Operation Rescue was cited –

MR. D'ALEMBERTE: Rescue America. She has no testimony concerning Rescue America; is that right.

THE WITNESS: Yes.

MR. D'ALEMBERTE: Since September 30, 1992.

THE COURT: And, nothing involving the named individuals.

[p. 67] MR. D'ALEMBERTE: She does not, that's right. No. Not on the no videotape. And, there's nothing relating to the two ladies. We had nothing to present on any of them.

There is nothing relating to the Reverend Martin either on videotape or in her testimony and nothing other than the documents which are identified as having been received and not yet been admitted into evidence.

So, therefore, there is no testimony or other evidence on that subject either. So, it is four, Your Honor, I see, rather than three.

THE COURT: Mr. Weiss, what organizations do you represent?

MR. WEISS: Rescue America. It's an unincorporated association headed by that gentlemen right there. Ed Martin.

THE COURT: Okay. Mr. Cadle, do you wish to inquire?

MR. CADLE: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. CADLE:

Q Ms. Arick, I would like to go through the video in the sequence in which we observed the three different segments that I would like to discuss with [p. 68] you. I believe the first was on March sixth.

MR. CADLE: Your Honor, I apologize for approaching the bench.

THE COURT: I have no problem with that.

Q Let me ask you, if you could, Ms. Arick, this is – I can't see that?

A 8:06 a.m., March sixth.

Q March sixth, 8:06. You previously discussed people walking in a circular motion as being pro-life demonstrators. Is that correct?

A That is correct.

Q And, where did that circular motion take place on?

A From, we don't have the other map, from an area of the east end of the fence in the front all the way across the driveway area and back.

Q And, back. And, at any time during these protests in which it would appear there's possibly hundreds of individual out there, is there a mixture of pro-life and pro-abortion individuals walking in the same lines together or standing side by side on these public right-of-way areas?

A There has been.

Q There has been a mixture?

A Yes.

[p. 69] Q So, it would be difficult for you from this video to identify individually who is a pro-abortion individual, who is a pro-life individual?

A Actually it's very easy because the pro-choice folks have always had signs with them.

Q Have always had signs? There's never been any pro-choice individuals in front of Aware Woman without a sign?

A That I have observed. You asked me about the circular marching. And, when there has been a mixture, I have never observed a pro-choice person without a sign.

Q Okay. Have you observed in other areas around Aware Woman, perhaps on U. S. One, perhaps across the

street, in any of these other areas, have you observed a mixture of pro-choice individuals and pro-life individuals?

A Yes.

Q So, there is often times a mixture of those individuals?

A Yes.

Q You described a pro-choice line, I believe. Could you explain what that pro-choice line is or what that means?

A As I pointed out on the video, it is a [p. 70] single line of pro-choice people stretching across the driveway area to block any of the demonstrators from trespassing on the property or trying to rush –

Q Could you explain where it is on this video?

A Right here. It's a terrible freeze. This is the line of people right here.

Q This is a pro-choice line?

A It is.

Q Individuals with Aware Woman?

A It is.

Q They're extending across the driveway?

A Yes.

Q Is there a difference in where they are standing and where the pro-life individuals across the drive are standing?

A In what way?

Q I'm asking, I see a crowd of people. Can you explain which are the pro-choice or which are the pro-life individuals across that driveway?

A Yes, I can. The pro-choice people have their feet on the – to the north of the line painted on the driveway that is the property line.

Q All right. Do you have any idea who is the driver of this vehicle or any of their relationship [p. 71] to Aware Woman –

A No, I don't.

Q – Center for Choice? You have no idea if they were a patient. You have no idea who they were.

A No. I do not.

Q When we heard the audio portions of this video, could you explain what we're hearing there?

A As I said earlier those are pro-choice supporters chanting to drown out the anti-choice noise.

Q Could you explain to me what those chants might be that would be common on the days such as this?

A That was said, "What do we want? Choice. When do we want it? Now."

Q Now, there are similar chants? There is a lot of noise throughout the day?

A "Separate the church and state" is what you are hearing now.

Q That would be a pro-choice individual chanting in the background?

A Yes, it is.

Q Again, these are pro-choice individuals chanting?

[p. 72] A Yes, it is.

Q Do you have any idea who's using that whistle?

A No. I don't. I saw the person with it. She's a woman. I don't know her.

Q Was she on the pro-choice side of the line?

A Yes. She was.

Q A pro-choice individual –

A Yes.

Q – blowing the whistle?

A Uh-huh.

Q Could you describe for us –

A It's their response to the screaming.

Q Could you describe –

A I'm sorry.

Q Could you describe the time?

A It's 9:22 a.m., sorry.

Q I really can't see those numbers?

A You can't see and I can't hear.

Q So, we're an hour later?

A Yes.

Q The noise that we're hearing now, do you know if those are pro-choice individuals?

A It is a mixture because you can hear "mom" being screamed very loudly by the woman that we know [p. 73] to be named Jane, part of what we believe is the IMPACT Team. The response from the pro-choice people is to drown that out.

Q Are there pro-choice individuals across the street? We see a variety of people across the street. Could there be pro-choice individuals across the street?

A I have noticed a few pro-choice folks wander across the street. I have not seen large numbers.

Q And, we passed rapidly by seeing a car with a potato in the exhaust pipe.

A Uh-huh.

Q You did refer to it. Is that across the street?

A It was in the empty lot across the street.

Q Across from Aware Woman?

A Across Dixie Way.

Q Across Dixie Way. During this day you testified that you were inside the building. We saw a white board a minute ago. Let me interrupt, just a minute, the video.

This vehicle that we see, do you have any idea whose vehicle that is?

A No, I don't.

[p. 74] Q Do you have any idea if that was a patient attempting to enter?

A It certainly could have been. Patients were scheduled that day.

Q But, you have no idea?

A I do not.

Q No factual knowledge?

A I do not.

Q If this is someone seeking services at Aware Woman?

A No, I do not.

Q You referred to this white board and names being placed upon and your discussion with a significant other whose name was on this white board.

How many times during the day of March sixth were you inside the building at Aware Woman?

A Half dozen at least.

Q Half a dozen at least. What would be the average – What would be the average purpose of your going inside, the average purpose?

A Things like using the restroom, to talk to the young man whose name was on that board, to escort a traumatized, weeping patient into the building and have a moment or two with her.

[p. 75] The length of time rarely exceeded two, three, four, five minutes. My focus during these demonstrations is the outside activities.

Q Now, we're about to see what you described as a crowd scene with a man you've described as Randall Terry. Am I in this scene at all to your knowledge?

A Well –

Q I understand it's difficult to –

A I don't see you at this time.

Q Could you describe the sign behind Mr. Terry's head? If the Court would excuse the language that I believe is on there?

A Abortion God is the –

Q The hot pink sign that was being held previously, if we could rewind that. I believe it followed Mr. Terry.

A It says Randall Terry sucks.

Q Would you assume that could be a pro-choice individual's sign?

A I would assume so.

Q So, this crowd that we are seeing could be a mixture of pro-choice and pro-life?

A We know that at least one of those people [p. 76] is not a follower of Randall Terry's.

Q I would agree. Would you also say that – what percentage of this crowd that we' re seeing is media. Just an estimate.

A Well, I see at least half a dozen media people around here. So, depending on how large the shot is, you're looking at least half a dozen media.

Q At least a half dozen media people and one individual we recognize as not being a follower of Mr. Terry's.

You identified this scene earlier as a driveway?

A Yes.

Q Where were you when this scene was taking place?

A I was in the grass directly east of the driveway.

Q And, how long – We see here a "Keep abortion legal" sign. Would I also assume that that's a pro-choice individual?

A We could assume that, yes.

Q And, in fact, other than a few signs that may indicate, we have no idea who these people and if they are pro-life or pro-choice in this general crowd?

[p. 77] A It is very difficult to establish who these folks are without being able to freeze and look very closely.

Q So, if this is, in fact, in the driveway which, from my recollection of this portion of the video, we never see the ground from my recollection of the camera angle. Would it be safe to assume that this is a mutual blocking, if this is a blocking of the driveway, this is a mutual blocking?

There's media. There's pro-life individuals. There's pro-choice individuals. There's a whole crowd in there. Are they all in the same basic area doing basically the same thing?

A Well, we can assume there are a large number of people here whose identity is a mixture. We can always assume that if Randall Terry and this group were not present that the pro-choice people would not be there either.

Q Do you have any idea, was he having a conversation with someone? You were standing to the side?

A It appears that he was, in fact, at that time. Eleanor Smeal (phonetic) was on the property.

Q Identify Eleanor Smeal?

A She is the president of the Feminist [p. 78] Majority Foundation.

Q Of which you, I believe you said you were affiliated?

A I am.

Q Was she standing in the driveway area at this time?

A She was standing very near where I was. She could have been on the grass, could have been on the driveway. It would have been very close. It's difficult for me to give you an exact –

Q I believe, if we can rewind just a moment. I believe previously you identified – That's fine. – in the scene at 10:16 coming up you identified me?

A That is you.

Q I agree. Where were you when that video was taken? Do you have a recollection?

A There where many times when I was near the man with the boom box. Now, you obviously don't see me there. I don't see me in that picture. So, it is impossible for me to say that I was standing right there.

Q Do you have a recollection you were many times near the man with the boom box?

A Uh-huh.

[p. 79] Q Do you have a recollection as to where he was? Was he stationary? Did he tend to walk?

A He stayed in the proximity of the fence that is mid way on the property where the pampas grass is and to the east of that fence. That white map helps a lot with that.

MR. CADLE: Could we use that map once again, Your Honor, Exhibit A for Identification?

A He stayed primary – I'm sorry. He stayed in this area, along this area and down into this staff parking area. He rarely got past the parking, the pavement of the parking area. He was exclusively in this area.

Q So, he was not, to your knowledge, any where near the driveway that you've been previously describing.

A I did not see him there, no.

Q Do you believe that the video that you just showed me was in driveway then?

A No. I do not.

Q Do you believe it was done somewhere in the center –

A Yes.

Q – of the property?

[p. 80] A Yes.

Q So, this video does not show footage of me in or near the driveway?

A I have not noticed you in the driveway on this particular video.

Q Okay. Now, Ms. Arick, again we see vehicles leaving. Do you have any knowledge as to the owner operator or passenger of that particular vehicle?

A No. I don't.

Q Do you have any knowledge if anyone has been permanently detained from access to their vehicle because any individual blocking the driveway of Aware Woman Center for Choice in Melbourne?

A There have been phone calls from patients who had appointments scheduled into the clinic and when they drove by the congestion and fear that they could not get in the driveway passed the clinic and called back to reschedule their appointment to another time.

Permanently detained or not, detained on that given day, absolutely.

Q Do you have the names of any of those individuals?

A No. I don't.

[p. 81] Q To your knowledge on this day, March sixth –

A This is 12:41 p.m.

Q – or any time during that day was I charged with trespassing on, sitting in, blocking or obstructing, ingress into or egress from Aware Woman Center for Choice?

A You were not that I know of.

Q To your knowledge was I charged with physically abusing persons entering, leaving, working, or using any of the services at Aware Woman Center for Choice?

A Not that I know of.

Q To your knowledge was I charged with attempting or directing others to take any of those prior actions?

A You were directing others. But, no one was charged with any of those acts.

Q No one was charged with any of these actions?

A That's correct.

Q When you say no one was charged with any of those actions, would that include Randall Terry?

A To the best of my knowledge, he was charged with nothing.

[p. 82] Q With nothing. Would that include Reverend Pat Mahoney?

A To the best of my knowledge Pat Mahoney wasn't there that day.

Q Wasn't there that day. Okay. To the best of your knowledge was Reverend Ed Martin charged with any of those crimes?

A Not to the best of my knowledge. No.

Q Nor was Judy Madsen or Shirley Hobbs?

MR. D'ALEMBERTE: That's been stipulated.

Q All right. Are we – If we could fast forward to the next segment then, which, I believe was 3:13?

I believe the next segment was identified as being on Highway A-One-A in front of a condominium complex.

A Yes.

Q So, again just for the record, you said the only time I was identified in that video, to the best of your knowledge, I was no where near the driveway or the streets?

A On the scanning that we have done, I have seen you only in that place.

Q Thank you. And, Ms. Arick, I believe at 9:57, so we should just about be there where you [p. 83] identified me in this video?

A I identified you. I'm not sure of the time. We'll see it soon.

Q Can you turn up the volume. How would you describe the activities of these individuals? Were you physically present?

A I was. These individuals were generally quiet, carried no signs, and stayed in the area next to the highway that is public access.

Q The access area that's next to the highway, A-One-A? I believe this maybe the portion where you identified me?

A That's you.

Q And, do you agree I am also next to the highway?

A Yes.

Q Standing silently?

A Yes.

Q To the best of your knowledge, was I charged that day with blocking ingress or egress to any driveway, obstructing traffic?

A Not to the best of my knowledge.

Q To the best of your knowledge, were any of the defendants?

A Not that I am aware.

[p. 84] Q In fact, to the best of your knowledge, are any of the other named defendants present in this video?

A I am not aware of the actual connection of Pat Mahoney to Operation Rescue, so, and some of the others who are marching here. So, it's difficult for me to answer that.

Q Okay. And, this is indicative of the entire activity that day? People walking, silently, praying?

A Except for the time that, I believe, you and Keith Tucci clustered people into small groups at the end and then left the premises.

Q And, that activity I don't believe is on the video-tape?

A No.

Q Could you describe that activity?

A The two of you gathered people into groups of six, eight, or ten. And, it appeared that there [sic] purpose was to stand in small groups and pray and then people left to get in their vehicles.

Q Okay. Was that also near the highway similar to –

A In the same area.

Q To the same area you said we clustered into [p. 85] small groups and appeared to pray?

A Yes. At your direction.

Q All right. If we could fast forward on to the third segment of the video which, I believe, goes back in time to February twentieth.

While we're waiting for that, Ms. Arick, in front of Aware Woman Clinic we've seen a variety of activities. Related to the editing of these videos we hear single individuals from the pro-life group speaking, talking, talking loudly, yelling.

We hear the chanting and noise, group coordinated noises, as you've testified as appear to come from the pro-choice side.

Is there a time where there is group activity of the pro-life side? Is there singing by the pro-lifers?

A There is.

Q Is that a typical thing during these Saturday demonstrations that there might be a group of pro-life individuals singing together?

A Upon occasion.

Q Upon occasion. Is there reason why none of that shows up in this video footage?

A We did not construct something that was too time consuming for this proceeding.

[p. 86] Q Is there – You've described prayer activity which was also not – You were a firsthand witness to prayer activity, but it's not on the video. Is there sometime group prayer activity by the pro-life individuals out on the sidewalk area?

A There is.

Q And, is there a reason why that is not visible in any of these videos?

A Again, in the interest of time we were looking for the kinds of activities that seemed to be some of the most menacing and harassing.

Q Do you recollect from viewing this third segment ever identifying me in this segment?

A I do not recollect in this particular piece you being there, however, this is only a snippet from the day.

Q Which you chose as being indicative of that day's activities?

A Yes.

Q As far as your editorial decision –

A Yes.

Q – in this footage in which I'm not present, to the best of your knowledge on February 20, 1993, was I

charged with trespassing on, sitting in, blocking or obstructing ingress into or egress [p. 87] from the Aware Woman Center for Choice?

A Not that I've been made aware of.

Q To the best of your knowledge was I charged with physically abusing persons entering, leaving, working, or using any of the services of Aware Woman Center for Choice?

A Not that I've been made aware of.

Q To the best of your knowledge, was I charged with attempting or directing others to do any of those previously mentioned acts?

A Again, your direction has not been to have people arrested.

Q Has not been to have people arrested?

A Yeah.

Q Could you tell the Court, you've been involved in some way in the abortion movement or abortion industry since 19 – Was it seventy-six originally up north?

A 1976.

Q 1982 in Central Florida?

A That's correct.

Q Were there any reasons, other than time constraints, why you have left out every aspect of pro-life singing and of pro-life prayer of those types of activities in front of Aware Woman?

[p. 88] A Those activities are not the threatening, menacing activities that the clinics are concerned with.

Q So, you are not concerned out on the public right-of-way area in front of Aware Woman with having prolifers pray or sing peacefully on the public sidewalk there where you mentioned I was earlier? You are not concerned about that as a threat?

A We're concerned about obstruction, about people blocking ingress and egress, people getting in and out of the facility, and people being threatened, harassed, and intimidated.

Q You mentioned earlier some individuals making statements directly to you relating to God striking you dead or Jesus striking you dead?

A Yes.

Q Do you believe in God or do you believe in Jesus?

MR. D'ALEMBERTE: Your Honor, I think I would interpose an objection to that. It has no relevance to this cause.

MR. CADLE: Your Honor, her specific statement was that threats were related to God or Jesus doing these acts. Not that any individual, not that any group, not that any [p. 89] named defendant would ever participate in those acts, but people were praying that God or Jesus would do those things.

I'm curious to see if that was stated as a threat. I'm curious to see if she has a belief in those entities to see, in fact, if she feels threatened by God or Jesus.

MR. D'ALEMBERTE: Your Honor, if a person is there on the scene as the alleged instrument of God then says we want God to strike you dead, that seems to be not only terribly threatening but reminds me of some instances that occurred in other places in this state with in this month.

It's – Her personal beliefs have nothing to do with the threat as it was given.

MR. WEISS: Your Honor –

MR. D'ALEMBERTE: So far as I know, none of this relates to Mr. Weiss' clients.

THE COURT: I don't know. Ordinarily that type of acquiry is not permitted. Conceivably –

MR. D'ALEMBERTE: Your Honor, may I have a moment with the witness just to inquire about personal sensibilities. That may solve the [p. 90] problem.

THE COURT: All right.

(Whereupon, an informal discussion was held off the record, after which the following proceedings were had:)

MR. D'ALEMBERTE: Your Honor, I withdraw my objection and note that the door is open for him to inquire.

THE COURT: The witness will answer.

A In regard to your question, my answer has two parts. And, the first is that because I have such an extensive background in the abortion profession and have seen the quality of protest, the violence that has been done to abortion clinics, providers, and so on, in the name of God

by anti-choice demonstrators, protestors [sic] and so on, I have a genuine fear of the zealotry of some in your ranks.

As regard to my personal belief, yes, I am a member of a church. And, in fact, I do have a belief in God.

Q And, do you also have a belief in Jesus?

A I know him to be a historical figure and I know him to be the central figure in the Christian religion, yes.

[p. 91] Q Do you feel threatened in any way that your life might be ended by Jesus Christ?

A I feel threatened that my life might be ended by an anti-abortion radical in the name of Jesus Christ.

Q Do you feel threatened in any way that God, the God that you believe in, will end your life?

A The God that I believe in is benevolent, a benevolent God, not necessarily the very punative [sic] God that I have heard the people in your ranks refer to.

Q So, when someone says to you that they pray that God would strike you dead or that Jesus would strike you dead, you didn't feel any fear from God or Jesus that you would be struck dead?

A The fear came from those individuals.

Q From those individuals? Which I believe you testified earlier are not any of the individuals that said those things are not defendants or any of the people represented here today?

A Not at this time. No.

Q Not at this time. Is there any reason why the video footage that you edited, that you chose to select did

not show any cars being prohibited from entering into Aware Woman Center for Choice? And, in fact, is there a reason that we don't know who any of [p. 92] these people are?

A Because if a car drove by on the street and did not come into the clinic but slowed in the midst of the crowd, there was not a way at the time for your followers or our pro-choice people to determine whether or not that was a patient.

Many people live in this neighborhood. It's difficult to determine who is in a car that might slow and proceed on past.

Q Do you have any objections to any car driving on Dixie Way voluntarily stopping and receiving literature from a pro-life counseler [sic]?

A It depends on the context of the rest of the area. It depends on whether or not there would be a demonstration in process.

Q So, if there was a demonstration in process and a car voluntarily decides to stop and receive literature from a pro-life counseler [sic], you would object to that?

A Obviously I would have no control over that. My concern would be for public safety in the streets and for traffic problems.

Q And, those are areas outside of Aware Woman Clinic that you are relating to?

A I have no control over those areas.

[p. 93] MR. CADLE: I have no further questions.

REDIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q You indicated that on the videotape itself you did not have Mr. Cadle standing in driveway. Do you know where he was standing at the time that the videotape was taken?

A All of the segments or just the ones –

Q The ones that he pointed out to you as you went through. I believe that was on –

A March sixth was the day that we had so much driveway footage on that tape. On March sixth Mr. Cadle was at times in the driveway, at times on the sidewalk area and other parts of the clinic. At times he was down on Highway One. Mr. Cadle was very mobile.

Q Okay. And, on the days of demonstrations since the beginning of this year, have you at times seen Mr. Cadle in the driveway?

A Absolutely. And, in fact, there was a piece of video which we elected not to put on this edited format which showed Mr. Cadle in the driveway directing people in the driveway area.

Q All right. Now, you've indicated that some patients called the clinic and indicated they had [p. 94] come, found it difficult to come into Dixie Way and into the clinic facilities. Can tell us approximately –

MR. WEISS: That's going to be hearsay.

MR. D'ALEMBERTE: Your Honor, I respectfully submit that here is a clinic employee who receives information from someone who has a scheduled appointment, that has broken the scheduled appointment. She has knowledge she receives that, but not that their broken appointments – I think I am entitled to inquire as to what her knowledge is of those broken appointments.

MR. WEISS: Judge, this goes right to the heart of the matter.

MR. D'ALEMBERTE: Your Honor, I also point out that all this testimony is not something that relates to Mr. Weiss' clients. He has no standing to make an objection.

MR. WEISS: As an officer of the court I certainly have a right to object to the wildest form of hearsay that goes to the heart of this issue.

Where is the person? Where is the woman who was impaired to go in? Where is that [p. 95] person.

And, I submit this hearsay goes right to the heart of the issue. It's an attempt to prove by an out of court statement the truth of the allegations that patients have complained.

It is the wildest form of hearsay.

MR. D'ALEMBERTE: Communication directly with to this client breaking – with this witness breaking an appointment. And, she received the information herself, Your Honor.

THE COURT: It's not clear whether she received it or others received it.

MR. WEISS: I think that's correct.

MR. D'ALEMBERTE: Reported to her. I stand corrected, Your Honor. And, I'm not positive myself honestly.

THE COURT: Could you tell us whether or not you received calls personally or whether it was related to you by others?

THE WITNESS: I did not receive them personally. Others who are performing reception duties would field those calls as they come in. And, I gained knowledge of that during staff meetings at the end of a particular day.

MR. CADLE: I would then hereby move it's [p. 96] hearsay and be stricken from the record.

THE COURT: Sustain the objection.

Q As a consultant to the clinic –

THE COURT: Grant the motion to strike.

Q As a consultant to the clinic, were you able to determine, did you have access to the records of appointments to the clinic?

A Yes.

Q Were you able to examine those records?

A Yes.

Q Were you able to determine whether or not an unusual number of appointments were canceled on the days of the IMPACT demonstrations?

A Yes.

Q Were they?

A In fact, yes. And, among the canceled include people who do not call to say I'm not coming in. That's called someone who doesn't show up for appointments. Those numbers are increased as well as the cancellations.

Q Okay. Now, there was some testimony about a mixture of people in the roadway and in the demonstrations. Given the present climate of activities at the clinic, do you see any danger in that mixture of the various forces?

[p. 97] A I'm concerned for several reasons. One is, and in one part of the video there, we tried to stop and freeze. It's difficult to see. There is a car that entered the driveway. It is slowed out in the street as it very slowly makes its way to the driveway.

And, there is a person who is keeping it from entering quicker. It is a toddler held by the hand by one of the anti-choice demonstrators.

So, this very slow braking and moving of people in front of the driveway I fear is going to create a real public safety hazard. I'm afraid someone probably is going get run over in the street in driveway.

Additionally because there is not a separation of the pro-choice and the anti-choice groups, I fear that the police are going to be less able to stop confrontations if they might occur without any distances between them.

MR. D'ALEMBERTE: Thank you, Your Honor.

THE COURT: Mr. Cadle?

MR. CADLE: Yes, Your Honor.

RECROSS-EXAMINATION

BY MR. CADLE:

Q Ms. Arick, you just now testified to [p. 98] somethings [sic] you had not previously testified about my whereabouts at different times. Is there any reason – How many video cameras typically would your side be using on a given day of demonstrations?

A One to three.

Q One to three. Would, in part, the purpose of those video cameras be to collect evidence that might be used in a court proceeding such as this?

A Yes.

Q As the individual who edited those videos, do you personally give instruction or do you know that instruction is given to the operators of these cameras what to do, who to look for in their videography?

A If [sic] fact, I know that instruction to date has not been given. Therefore, the quality of what we have been able to bring specifically dealing with your presence is not what I would like.

Q So, you have hours, I believe you described earlier six or eight hours of collective video. Is it also true there is a stationary video camera on the premises of Aware Woman looking down over the driveway area at all times?

A It is.

Q And, is that recorded on the videotape?

[p. 99] A It is.

Q Could you describe for the Court the elevation of that particular camera?

A It's on a flag pole twenty, twenty-five feet above the ground.

Q So nothing would likely obstruct its view of the driveway area?

A Correct.

Q And, is it focused at the driveway area?

A It is.

Q Is there any reason why you did not bring any footage from that video camera showing me ever in the driveway at Aware Woman Center for Choice?

A Yes, there is. The reason is that it only films at night.

Q Is that a peculiarity that this particular camera can't film during the day?

A It's not used during the day. It's a security camera for nighttime.

Q And, you described my whereabouts – the areas that you were describing, you said I was rather mobile. Were those areas that you were describing in the public areas of the right-of-way?

A They were.

Q And, not on the property of the Aware Woman [p. 100] Clinic?

A They were not.

Q And, you mentioned that a number of appointments decreasing on the days of these demonstrations. Is it accurate that you also said that some of those people just never called? They never showed up. And, you have no reason why they may not have come.

A Yes. Initially. However, each of those people were contacted afterward to find out why they failed to show for an appointment.

Q Do you have the name of any individual that says that they had failed to show up because of having their ingress or egress blocked into the driveway?

A No. I don't.

MR. CADLE: Okay. No further questions, Your Honor.

THE COURT: All right. It's 12:16. We'll recess for lunch until 1:30 when you can call your next witness.

MR. D'ALEMBERTE: Your Honor, one technical problem, I don't think we actually marked the videotape as an exhibit entered or identified as accepted into evidence. I think that it might [p. 101] need a number we can refer to for the record.

THE COURT: All right. It was previously admitted into evidence. It's been placed in evidence. Let's mark it as what number?

THE CLERK: Plaintiffs' Number Five.

(Whereupon, the Court was recessed at 12:20 o'clock p.m.)

[p. 102] CERTIFICATE OF REPORTER

STATE OF FLORIDA :
:
COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the within-named proceedings were by me reduced to shorthand; afterwards transcribed by me; that the foregoing is a true and correct transcription of the proceedings as aforesaid

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on February 5, 1994 in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No.: CC 053127

[p. 1] IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA
CASE NO: 91-2811-CA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Petitioners.

vs.

OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,

Respondents.
_____/

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

A hearing in the above-styled cause was held at 9:30 o'clock a.m., on Friday, the 2nd day of April, 1993, in the courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

[p. 2] APPEARANCES:

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HEARING HELD APRIL 2, 1993

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[p. 3] WHEREUPON:

The following proceedings were had:

PAULA SUE WYMER

a witness herein, having first been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. CADLE:

Q Mrs. Wymer, would you state your name and place of residence for the record, please?

A Paula Sue Wymer, 240 Pike (phonetic) Street, Palm Bay, Florida.

Q Mrs. Wymer, I'm going to ask you a series of questions that relate to a time frame beginning September thirtieth of 1992 up until – to the present time.

It was on September thirtieth of 1992 this Court granted a permanent injunction related to activities outside of any facility that performs abortions in Brevard or Seminole Counties.

In that time frame have you had occasion to be present in front of Aware Woman Center for Choice?

A Yes, I have.

[p. 4] Q Have you had occasion to be there on a regular basis?

A Uh-huh.

Q Could you describe the type of frequency perhaps?

A Okay. Yes, I have. The frequency would be probably three out of four Saturdays a month. Did you ask why? I'm sorry.

Q No. No. Just the frequency. Have I ever invited you or ever encourgaged [sic] you to come to Aware Woman?

A Yes, you have.

Q Have you come as a result of those invitations or that encouragement?

A Yes. In part.

Q Would you describe the activities that you have participated in after coming to Aware Woman?

A Okay. I come out of my personal sense of conviction and, in part, I come because Bruce has invited me. But, I come to obey my Lord and Savior, to obey a higher law.

I come to pray firstly, and pray for, first of all, that babies would not be killed that day.

I truly believe that the moment a baby is conceived he or she is a human being. I feel [p. 5] strongly about this. And, I feel prayer is the first and foremost thing that we're called to do as Christians.

I don't believe that is done in the church alone. I don't believe it happens within the walls. I believe we have to go to the killing centers, I believe, to make our presence known to the girls that come seeking what they think is counseling, seeking what they think is help. And, I think we need to be there as a way to say there is another choice.

I come also to sing, to be a part of a church that doesn't happen within walls, the true church. I come to be a part of a church that comes from different faiths. We are the church when we're there.

You sense the Lord's presence in a different and special way. We come to sing. We don't shout. We don't yell. I do not participate in those things. And, essentially that's what we're doing there. That's what I'm doing.

Q When you come and you sing, when you pray and you participate in this worship, are you doing this on public right-of-way or where does this take place?

A Yes, we are. We're doing it, unfortunately [p. 6] we're doing it in the street because the police had barricaded public right-of-way to us in Melbourne. We are not allowed to go from a certain point in time. We were in the street doing this. But, we never once went across the public right-of-way or past those barricades.

Q Have you ever observed me present during some of those times when you've been on the public right-of-way area?

A Yes, I have.

Q And, what type of activities have you seen me engage in?

A Praying, first and foremost, leading in the singing, discussing with police officers, pleading with police offices to uphold what we know is the law, speaking with other people among the group.

Q Would you say that you have typically seen me in the sidewalk area? In the driveway area?

A Typically on the sidewalk area or outside in the street actually.

Q Some of the charges the plaintiffs related to me, Mrs. Wymer, they are attempting to find me in contempt of this court order which prohibits me from the following acts, trespassing on, sitting in, blocking or obstructing ingress to or egress from any [p. 7] facilities at which abortions are performed in Brevard or Seminole Counties.

Since September thirtieth of 1992 have you observed me do any of those things?

A No, I have not.

Q The next thing that is enjoined by the Court is physically abusing persons entering, leaving working, or using any services of any facilities at which abortions are performed in Brevard or Seminole County, Florida.

Have you seen me physically abuse any persons?

A Absolutely not.

Q Have you seen me attempt to do any of the things I've just stated?

A No.

Q Have you seen me direct others to do any of those things –

A Absolutely not?

A [sic] – I've just stated. Okay. Mrs. Wymer, one of the direct allegations is that I have been on site at the clinic participating in activities which violated the injunction against those things that I just read you.

Have you seen me engaged in harassing [p. 8] activities designed to obstruct ingress in or egress from the clinic. They described demonstrators swarming around cars, attempting to trap people inside. Have you seen anything like that happen?

A Absolutely not.

Q Have you seen me attempt to do anything like that?

A No.

Q Or strike anyone?

A Never.

Q Mrs. Wymer, do you have any plans to trespass on or sit in, block ingress or egress into any facility at which abortions are performed in Brevard or Seminole County?

A No.

Q You plan to physically abuse people entering, leaving, or working in or using any services or any facilities in which abortions are performed in Brevard and Seminole County?

A No. I do not.

Q Do you have any plans to attempt to do those?

A No.

Q To direct or to do those things?

A No.

[p. 9] MR. CADLE: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. WEISS:

Q Hi. Do you know reverend Ed Martin? Could you pick him out of a crowd?

A No. I could not.

MR. WEISS: Nothing further, Your Honor.

CROSS-EXAMINATION

BY MS. PATRICK:

Q Mrs. Wymer, I want to see if I understood your testimony correctly. Since the injunction was entered in court you have come to the Aware Woman, I think, three out of four Saturdays a month?

A Approximately, yes.

Q You have come at the invitation of Bruce Cadle at that time; right?

A In part, yes.

Q In part because Mr. Cadle has called and invited you to come?

A Not always.

Q The majority of the time?

A No.

Q He has not called?

A What do you mean call?

[p. 10] Q I'm sorry. I assumed he made an invitation by telephone. If I was mistaken –

A No.

Q Why don't you tell me how he makes an invitation known to you?

A We're close friends, so we communicate through, I mean, just talking.

Q Okay. How often does Mr. Cadle talk to you and invite you to come to the clinic?

A How often?

Q Yes.

A Probably weekly.

Q All right. So, Mr. Cadle talks to you weekly to invite you to come to the clinic; is that right?

A Yes.

Q And, when you get to the clinic do you see Mr. Cadle there?

A Yes.

Q You see him lead others in singing?

A Uh-huh.

Q Do you see him discussing matters with police officers?

A Occasionally.

Q And, when you see him doing that, is it – [p. 11] What is your understanding of why he's doing that? Is he

acting on behalf of you, all of you that are there, talking, interceding for you with the police?

A I would imagine so.

Q All right.

A I'm not close enough to see what he is speaking about. But, I think alot of the time it's to make sure that we know what the police are there for.

Q All right.

A And, what the boundries [sic] are.

Q When he comes to talk to you and the others with you after speaking to the police, do you and the others to whom he speaks obey his instructions?

A Maybe I'm being misunderstood. He doesn't come and more or less relay what the police are saying. He's there, I would say, as an emissary.

Q All right. An emissary on behalf of the demonstrators or people praying and walking, counselors to the police?

A Occasionally, yes.

Q Do you perceive Mr. Cadle as a leader?

A Yes. I would say so.

Q Do you perceive him as a leader of the movement called Operation Rescue?

[p. 12] A That's – That's his job. Yes.

Q Are you also an adherent to Operation Rescue?

A Yes. I am.

Q Are you taking IMPACT training?

A No, I'm not.

Q Have you attended any IMPACT training courses?

A No.

Q On the days when you are at the clinic you said that you did not shout?

A No. No. I have not shouted.

Q Have you seen other pro-life demonstrators, though, that shout while you are present at the clinic?

A Yes. And, may I explain why?

Q I'll ask you questions. I'm sure if –

A No. I would like to explain why.

Q No.

A There is a reason –.

THE COURT: You weren't asked why. You have to answer only the questions as posed. And, again Mr. Cadle presumbly, if he would like you to do that, he will ask you that.

THE WITNESS: Okay.

[p. 13] Q Now, one of the reasons that you are all there, I believe you said, is because you are there to be part of the true church. Is that right?

A Yes.

Q And, the people who are there are there to display the strong feelings that they have about abortions?

A Wrong.

Q Right?

A Wrong. We are not displaying our feelings. We're there because of what we believe, God has said something, not our feelings.

Q You are there –

A It's much deeper than that.

Q I don't mean any disrespect to your faith, ma'am. If you are there to –

A Okay. I am there because I have definite convictions and feelings.

Q All right. So, you are there to display your convictions about abortion?

A No. I wouldn't say I'm there to display it. I think I'm there so that women know there is a choice. There is a different –

Q All right. And, you and the others who are there are there, I believe you said, to display that [p. 14] you are part of the true church?

A Yes.

Q And, that God calls you to obey a higher law?

A Yes.

Q All right. Do you pray for God's judgment on Aware Woman and the people who work there?

A Not primarily, no.

Q Do you ever pray for it?

A Yes.

Q How many times have you prayed for God's judgment on Aware Woman and the people who work there?

A I would have to no idea.

Q What do you mean when you say that? What do you look for? What do you want to happen when you pray for God's judgment on Aware Woman?

A I would not use that word or those words, God's judgment. I would – I would say that I pray that women that come would know the truth. And, I don't believe the truth is being told. I don't believe that there is an opportunity for truth to be told.

And, that's the reason sidewalk counselors are not able to be giving information. There is a [p. 15] band against truth. And, so that's what I pray.

Q Mrs. Wymer, I don't think I misheard you. I think you said you have on occasion prayed for God's judgment on Aware Woman and the people that work there?

A What do you mean by God's judgment?

Q Well, you understood judgment and acknowledged you had some idea what I was talking about. I would with like for you to tell the Court candidly what you mean by praying for God's judgment on the people who work at abortion clinics?

A I just did.

Q Do you pray that Aware Woman will go out of business?

A Yes, I do.

Q Do you pray that the people who work there will not come to work?

A Yes. Occasionally I do for their sakes and not only for the girls that come.

Q Have you ever heard people there in the demonstrations call down God's judgment on Ted Wendell?

A No.

Q Have you ever heard anyone call down God's judgment on the people who work at the clinic?

[p. 16] A Yes.

Q Have you called God's judgment on the clinic?

A No.

Q Do you know what – God's judgment, you read about that in the Bible?

A Yes, I do.

Q What does it mean?

A I would say God's judgment would mean he upholds his law.

Q How would he do that?

A I would have no idea. He does it in differemt [sic] ways. Each circumstance is different. But, god's law is

always being upheld whether man believes it or not or acknowledges whether it exists.

Q And, one of your jobs as a Christian is to obey God's higher law. Is that right?

A Yes.

Q And, if the law, if God's higher law caused you to come on the property of a clinic, you would do that; wouldn't you?

A Yes. I would.

Q If God's law called you to violate the Court's orders, you would do that; wouldn't you?

A Yes, I would.

[p. 17] Q And, do you believe that the people who are there demonstrating with you share your convictions about abortions, of obeying God's higher law as opposed to the law of man?

A Yes. But I would have no idea how that manifests itself in their lives. I can only speak for myself.

Q The people with who you share your convictions about abortions obey the higher – God's higher law rather than the law of man?

A Yes. When it conflicts with man's law.

Q And, as you sit here today God's higher law conflicts with man's law in Florida which permits abortion? You believe that; don't you?

A Restate your question.

Q You believe that God's law conflicts with the laws of the State of Florida that permits abortions?

A Yes, I do.

Q So, you are going to obey God's law when it comes to matters of abortion and the women that want to them have them?

MS. PATRICK: Thank you. I have nothing further.

THE COURT: Mr. Cadle, any further inquiry?

[p. 18] MR. CADLE: Just briefly, Your Honor.

REDIRECT-EXAMINATION

BY MR. CADLE:

Q Mrs. Wymer, you described that you have not participated in shouting, but that you have witnessed people shouting. Would you describe what you've witnessed?

A Yes, I would. On more than one occasion, in fact, more often than not, loud music is played from the boundries [sic] within the Clinic so that the girls that arrive in cars and are escorted in with umbrellas, with all manner of clocking are not able to hear what the sidewalk counselors would like to give them. They're not able to stop their car, roll down their window on public property and take the literature that would show them what's going on that would give them the truth to make a decision.

And, so occasionally and like I said, more often than not when loud music, when yelling and screaming from pro-aborts is done in our faces, most of the time in our ears, within inches of our faces screaming is being done at that point in time, yes.

There have been people, sidewalk counselors especially that have to raise their voices and shout to be heard so that girls that are getting out of [p. 19] their cars, walking into the clinic can actually hear that there is going to be some truth before they go in. They can't say they hadn't heard something.

Q Mrs. Wymer there is confusion over the question of your prayers and praying for judgment. Have you prayed anything else related to the Wendells?

A Yes, I have. I don't only pray for what you would want to call God's judgment, but I believe at a certain point in time, I would hope that it's sooner than later for the Wendells, but that God will allow their hardened hearts to be opened and be able to see the truth.

Q And, so do you pray for similar things for the other employees that work at Aware Woman?

A Yes. When I say truth, let me qualify that. I don't mean truth about the abortion issue or truth about rights. I'm talking about God's truth and the acceptance of him and what that entails.

Q Is it your desire that through your prayers to see the Wendells saved or judged?

A Saved.

MR. CADLE: No further questions, Your Honor.

THE COURT: Any further inquiry.

[p. 20] MS. PATRICK: No, sir.

THE COURT: All right. Thank you.

[p. 21] CERTIFICATE OF REPORTER

STATE OF FLORIDA :

COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the within-named witness was first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the testimony then given by her was by me reduced to shorthand in the presence of the witness; afterwards transcribed by me; that the foregoing is a true and correct transcription of the testimony so given by her as aforesaid.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set may hand and affixed my seal of office on February 7, 1994 in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

Notary Public – State of Florida
My Commission Expires:
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Commission No.: CC 053127